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No. 146

House of Representatives

The House met at 9 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

RECESS

The SPEAKER. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 2 minutes a.m.), the House stood in recess until 10 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:
O God of power and mercy deliver Your people from every evil; let nothing harm the destiny of this Nation.

Give us the freedom of spirit and the health of mind and body to accomplish the work You have set before us.

May nothing prevent us from making right judgments and placing our trust in You.

Founded on truth, built on justice and animated by love, may this government serve Your people and grow every day toward a more humane balance witnessed by the world.

You are the Lord God living now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio (Mrs. JONES) come forward and lead the House in the Pledge of Allegiance.

Mrs. JONES of Ohio led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests at the conclusion of legislative business.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which a vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4986) to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

(a) *SHORT TITLE.*—This Act may be cited as the "FSC Repeal and Extraterritorial Income Exclusion Act of 2000".

(b) *AMENDMENT OF 1986 CODE.*—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REPEAL OF FOREIGN SALES CORPORATION RULES.

Subpart C of part III of subchapter N of chapter 1 (relating to taxation of foreign sales corporations) is hereby repealed.

SEC. 3. TREATMENT OF EXTRATERRITORIAL INCOME.

(a) *IN GENERAL.*—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting before section 115 the following new section:

"SEC. 114. EXTRATERRITORIAL INCOME.

"(a) *EXCLUSION.*—Gross income does not include extraterritorial income.

"(b) *EXCEPTION.*—Subsection (a) shall not apply to extraterritorial income which is not qualifying foreign trade income as determined under subpart E of part III of subchapter N.

"(c) *DISALLOWANCE OF DEDUCTIONS.*—

"(1) *IN GENERAL.*—Any deduction of a taxpayer allocated under paragraph (2) to extraterritorial income of the taxpayer excluded from gross income under subsection (a) shall not be allowed.

"(2) *ALLOCATION.*—Any deduction of the taxpayer properly apportioned and allocated to the extraterritorial income derived by the taxpayer from any transaction shall be allocated on a proportionate basis between—

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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“(A) the extraterritorial income derived from such transaction which is excluded from gross income under subsection (a), and

“(B) the extraterritorial income derived from such transaction which is not so excluded.

“(d) DENIAL OF CREDITS FOR CERTAIN FOREIGN TAXES.—Notwithstanding any other provision of this chapter, no credit shall be allowed under this chapter for any income, war profits, and excess profits taxes paid or accrued to any foreign country or possession of the United States with respect to extraterritorial income which is excluded from gross income under subsection (a).

“(e) EXTRATERRITORIAL INCOME.—For purposes of this section, the term ‘extraterritorial income’ means the gross income of the taxpayer attributable to foreign trading gross receipts (as defined in section 942) of the taxpayer.”

(b) QUALIFYING FOREIGN TRADE INCOME.—Part III of subchapter N of chapter 1 is amended by inserting after subpart D the following new subpart:

“Subpart E—Qualifying Foreign Trade Income

“Sec. 941. Qualifying foreign trade income.

“Sec. 942. Foreign trading gross receipts.

“Sec. 943. Other definitions and special rules.

“SEC. 941. QUALIFYING FOREIGN TRADE INCOME.

“(a) QUALIFYING FOREIGN TRADE INCOME.—For purposes of this subpart and section 114—

“(i) IN GENERAL.—The term ‘qualifying foreign trade income’ means, with respect to any transaction, the amount of gross income which, if excluded, will result in a reduction of the taxable income of the taxpayer from such transaction equal to the greatest of—

“(A) 30 percent of the foreign sale and leasing income derived by the taxpayer from such transaction,

“(B) 1.2 percent of the foreign trading gross receipts derived by the taxpayer from the transaction, or

“(C) 15 percent of the foreign trade income derived by the taxpayer from the transaction. In no event shall the amount determined under subparagraph (B) exceed 200 percent of the amount determined under subparagraph (C).

“(2) ALTERNATIVE COMPUTATION.—A taxpayer may compute its qualifying foreign trade income under a subparagraph of paragraph (1) other than the subparagraph which results in the greatest amount of such income.

“(3) LIMITATION ON USE OF FOREIGN TRADING GROSS RECEIPTS METHOD.—If any person computes its qualifying foreign trade income from any transaction with respect to any property under paragraph (1)(B), the qualifying foreign trade income of such person (or any related person) with respect to any other transaction involving such property shall be zero.

“(4) RULES FOR MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth rules for the allocation of expenditures in computing foreign trade income under paragraph (1)(C) in those cases where a taxpayer is seeking to establish or maintain a market for qualifying foreign trade property.

“(5) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the qualifying foreign trade income of a taxpayer for any taxable year shall be reduced (but not below zero) by the sum of—

“(A) an amount equal to such income multiplied by the international boycott factor determined under section 999, and

“(B) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the taxpayer directly or indirectly to an official, employee, or agent in fact of a government.

“(b) FOREIGN TRADE INCOME.—For purposes of this subpart—

“(i) IN GENERAL.—The term ‘foreign trade income’ means the taxable income of the taxpayer attributable to foreign trading gross receipts of the taxpayer.

“(2) SPECIAL RULE FOR COOPERATIVES.—In any case in which an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products sells qualifying foreign trade property, in computing the taxable income of such cooperative, there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

“(c) FOREIGN SALE AND LEASING INCOME.—For purposes of this section—

“(i) IN GENERAL.—The term ‘foreign sale and leasing income’ means, with respect to any transaction—

“(A) foreign trade income properly allocable to activities which—

“(i) are described in paragraph (2)(A)(i) or (3) of section 942(b), and

“(ii) are performed by the taxpayer (or any person acting under a contract with such taxpayer) outside the United States, or

“(B) foreign trade income derived by the taxpayer in connection with the lease or rental of qualifying foreign trade property for use by the lessee outside the United States.

“(2) SPECIAL RULES FOR LEASED PROPERTY.—

“(A) SALES INCOME.—The term ‘foreign sale and leasing income’ includes any foreign trade income derived by the taxpayer from the sale of property described in paragraph (1)(B).

“(B) LIMITATION IN CERTAIN CASES.—Except as provided in regulations, in the case of property which—

“(i) was manufactured, produced, grown, or extracted by the taxpayer, or

“(ii) was acquired by the taxpayer from a related person for a price which was not determined in accordance with the rules of section 482,

the amount of foreign trade income which may be treated as foreign sale and leasing income under paragraph (1)(B) or subparagraph (A) of this paragraph with respect to any transaction involving such property shall not exceed the amount which would have been determined if the taxpayer had acquired such property for the price determined in accordance with the rules of section 482.

“(3) SPECIAL RULES.—

“(A) EXCLUDED PROPERTY.—Foreign sale and leasing income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 943(a)(3) (relating to intangibles).

“(B) ONLY DIRECT EXPENSES TAKEN INTO ACCOUNT.—For purposes of this subsection, any expense other than a directly allocable expense shall not be taken into account in computing foreign trade income.

“SEC. 942. FOREIGN TRADING GROSS RECEIPTS.

“(a) FOREIGN TRADING GROSS RECEIPTS.—

“(i) IN GENERAL.—Except as otherwise provided in this section, for purposes of this subpart, the term ‘foreign trading gross receipts’ means the gross receipts of the taxpayer which are—

“(A) from the sale, exchange, or other disposition of qualifying foreign trade property,

“(B) from the lease or rental of qualifying foreign trade property for use by the lessee outside the United States,

“(C) for services which are related and subsidiary to—

“(i) any sale, exchange, or other disposition of qualifying foreign trade property by such taxpayer, or

“(ii) any lease or rental of qualifying foreign trade property described in subparagraph (B) by such taxpayer,

“(D) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

“(E) for the performance of managerial services for a person other than a related person in furtherance of the production of foreign trading

gross receipts described in subparagraph (A), (B), or (C).

Subparagraph (E) shall not apply to a taxpayer for any taxable year unless at least 50 percent of its foreign trading gross receipts (determined without regard to this sentence) for such taxable year is derived from activities described in subparagraph (A), (B), or (C).

“(2) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS EXCLUDED.—The term ‘foreign trading gross receipts’ shall not include receipts of a taxpayer from a transaction if—

“(A) the qualifying foreign trade property or services—

“(i) are for ultimate use in the United States, or

“(ii) are for use by the United States or any instrumentality thereof and such use of qualifying foreign trade property or services is required by law or regulation, or

“(B) such transaction is accomplished by a subsidy granted by the government (or any instrumentality thereof) of the country or possession in which the property is manufactured, produced, grown, or extracted.

“(3) ELECTION TO EXCLUDE CERTAIN RECEIPTS.—The term ‘foreign trading gross receipts’ shall not include gross receipts of a taxpayer from a transaction if the taxpayer elects not to have such receipts taken into account for purposes of this subpart.

“(b) FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

“(i) IN GENERAL.—Except as provided in subsection (c), a taxpayer shall be treated as having foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by paragraph (2).

“(2) REQUIREMENT.—

“(A) IN GENERAL.—The requirements of this paragraph are met with respect to the gross receipts of a taxpayer derived from any transaction if—

“(i) such taxpayer (or any person acting under a contract with such taxpayer) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

“(ii) the foreign direct costs incurred by the taxpayer attributable to the transaction equal or exceed 50 percent of the total direct costs attributable to the transaction.

“(B) ALTERNATIVE 85-PERCENT TEST.—A taxpayer shall be treated as satisfying the requirements of subparagraph (A)(ii) with respect to any transaction if, with respect to each of at least 2 subparagraphs of paragraph (3), the foreign direct costs incurred by such taxpayer attributable to activities described in such subparagraph equal or exceed 85 percent of the total direct costs attributable to activities described in such subparagraph.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) TOTAL DIRECT COSTS.—The term ‘total direct costs’ means, with respect to any transaction, the total direct costs incurred by the taxpayer attributable to activities described in paragraph (3) performed at any location by the taxpayer or any person acting under a contract with such taxpayer.

“(ii) FOREIGN DIRECT COSTS.—The term ‘foreign direct costs’ means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

“(3) ACTIVITIES RELATING TO QUALIFYING FOREIGN TRADE PROPERTY.—The activities described in this paragraph are any of the following with respect to qualifying foreign trade property—

“(A) advertising and sales promotion,

“(B) the processing of customer orders and the arranging for delivery,

“(C) transportation outside the United States in connection with delivery to the customer,

“(D) the determination and transmittal of a final invoice or statement of account or the receipt of payment, and

“(E) the assumption of credit risk.

“(4) ECONOMIC PROCESSES PERFORMED BY RELATED PERSONS.—A taxpayer shall be treated as meeting the requirements of this subsection with respect to any sales transaction involving any property if any related person has met such requirements in such transaction or any other sales transaction involving such property.

“(C) EXCEPTION FROM FOREIGN ECONOMIC PROCESS REQUIREMENT.—

“(1) IN GENERAL.—The requirements of subsection (b) shall be treated as met for any taxable year if the foreign trading gross receipts of the taxpayer for such year do not exceed \$5,000,000.

“(2) RECEIPTS OF RELATED PERSONS AGGREGATED.—All related persons shall be treated as one person for purposes of paragraph (1), and the limitation under paragraph (1) shall be allocated among such persons in a manner provided in regulations prescribed by the Secretary.

“(3) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership, S corporation, or other pass-thru entity, the limitation under paragraph (1) shall apply with respect to the partnership, S corporation, or entity and with respect to each partner, shareholder, or other owner.

“SEC. 943. OTHER DEFINITIONS AND SPECIAL RULES.

“(a) QUALIFYING FOREIGN TRADE PROPERTY.—For purposes of this subpart—

“(1) IN GENERAL.—The term ‘qualifying foreign trade property’ means property—

“(A) manufactured, produced, grown, or extracted within or outside the United States,

“(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business for direct use, consumption, or disposition outside the United States, and

“(C) not more than 50 percent of the fair market value of which is attributable to—

“(i) articles manufactured, produced, grown, or extracted outside the United States, and

“(ii) direct costs for labor (determined under the principles of section 263A) performed outside the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation, and the direct costs for labor under clause (ii) do not include costs that would be treated under the principles of section 263A as direct labor costs attributable to articles described in clause (i).

“(2) U.S. TAXATION TO ENSURE CONSISTENT TREATMENT.—Property which (without regard to this paragraph) is qualifying foreign trade property and which is manufactured, produced, grown, or extracted outside the United States shall be treated as qualifying foreign trade property only if it is manufactured, produced, grown, or extracted by—

“(A) a domestic corporation,

“(B) an individual who is a citizen or resident of the United States,

“(C) a foreign corporation with respect to which an election under subsection (e) (relating to foreign corporations electing to be subject to United States taxation) is in effect, or

“(D) a partnership or other pass-thru entity all of the partners or owners of which are described in subparagraph (A), (B), or (C). Except as otherwise provided by the Secretary, tiered partnerships or pass-thru entities shall be treated as described in subparagraph (D) if each of the partnerships or entities is directly or indirectly wholly owned by persons described in subparagraph (A), (B), or (C).

“(3) EXCLUDED PROPERTY.—The term ‘qualifying foreign trade property’ shall not include—

“(A) property leased or rented by the taxpayer for use by any related person,

“(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or

similar reproductions, and other than computer software (whether or not patented), for commercial or home use), goodwill, trademarks, trade brands, franchises, or other like property,

“(C) oil or gas (or any primary product thereof),

“(D) products the transfer of which is prohibited or curtailed to effectuate the policy set forth in paragraph (2)(C) of section 3 of Public Law 96-72, or

“(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term ‘unprocessed timber’ means any log, cant, or similar form of timber.

“(4) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, the President may by Executive order designate the property as in short supply. Any property so designated shall not be treated as qualifying foreign trade property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President’s determination that the property is no longer in short supply.

“(b) OTHER DEFINITIONS AND RULES.—For purposes of this subpart—

“(1) TRANSACTION.—

“(A) IN GENERAL.—The term ‘transaction’ means—

“(i) any sale, exchange, or other disposition,

“(ii) any lease or rental, and

“(iii) any furnishing of services.

“(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

“(2) UNITED STATES DEFINED.—The term ‘United States’ includes the Commonwealth of Puerto Rico. The preceding sentence shall not apply for purposes of determining whether a corporation is a domestic corporation.

“(3) RELATED PERSON.—A person shall be related to another person if such persons are treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414, except that determinations under subsections (a) and (b) of section 52 shall be made without regard to section 1563(b).

“(4) GROSS AND TAXABLE INCOME.—Section 114 shall not be taken into account in determining the amount of gross income or foreign trade income from any transaction.

“(c) SOURCE RULE.—Under regulations, in the case of qualifying foreign trade property manufactured, produced, grown, or extracted within the United States, the amount of income of a taxpayer from any sales transaction with respect to such property which is treated as from sources without the United States shall not exceed—

“(1) in the case of a taxpayer computing its qualifying foreign trade income under section 941(a)(1)(B), the amount of the taxpayer’s foreign trade income which would (but for this subsection) be treated as from sources without the United States if the foreign trade income were reduced by an amount equal to 4 percent of the foreign trading gross receipts with respect to the transaction, and

“(2) in the case of a taxpayer computing its qualifying foreign trade income under section 941(a)(1)(C), 50 percent of the amount of the taxpayer’s foreign trade income which would (but for this subsection) be treated as from sources without the United States.

“(d) TREATMENT OF WITHHOLDING TAXES.—

“(1) IN GENERAL.—For purposes of section 114(d), any withholding tax shall not be treated as paid or accrued with respect to

extraterritorial income which is excluded from gross income under section 114(a). For purposes of this paragraph, the term ‘withholding tax’ means any tax which is imposed on a basis other than residence and for which credit is allowable under section 901 or 903.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any taxpayer with respect to extraterritorial income from any transaction if the taxpayer computes its qualifying foreign trade income with respect to the transaction under section 941(a)(1)(A).

“(e) ELECTION TO BE TREATED AS DOMESTIC CORPORATION.—

“(1) IN GENERAL.—An applicable foreign corporation may elect to be treated as a domestic corporation for all purposes of this title if such corporation waives all benefits to such corporation granted by the United States under any treaty. No election under section 1362(a) may be made with respect to such corporation.

“(2) APPLICABLE FOREIGN CORPORATION.—For purposes of paragraph (1), the term ‘applicable foreign corporation’ means any foreign corporation if—

“(A) such corporation manufactures, produces, grows, or extracts property in the ordinary course of such corporation’s trade or business, or

“(B) substantially all of the gross receipts of such corporation are foreign trading gross receipts.

“(3) PERIOD OF ELECTION.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the taxpayer. Any revocation of such election shall apply to taxable years beginning after such revocation.

“(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraph (A) or (B) of paragraph (2) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

“(C) EFFECT OF REVOCATION OR TERMINATION.—If a corporation which made an election under paragraph (1) revokes such election or such election is terminated under subparagraph (B), such corporation (and any successor corporation) may not make such election for any of the 5 taxable years beginning with the first taxable year for which such election is not in effect as a result of such revocation or termination.

“(4) SPECIAL RULES.—

“(A) REQUIREMENTS.—This subsection shall not apply to an applicable foreign corporation if such corporation fails to meet the requirements (if any) which the Secretary may prescribe to ensure that the taxes imposed by this chapter on such corporation are paid.

“(B) EFFECT OF ELECTION, REVOCATION, AND TERMINATION.—

“(i) ELECTION.—For purposes of section 367, a foreign corporation making an election under this subsection shall be treated as transferring (as of the first day of the first taxable year to which the election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

“(ii) REVOCATION AND TERMINATION.—For purposes of section 367, if—

“(I) an election is made by a corporation under paragraph (1) for any taxable year, and

“(II) such election ceases to apply for any subsequent taxable year, such corporation shall be treated as a domestic corporation transferring (as of the 1st day of the first such subsequent taxable year to which such election ceases to apply) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

“(C) ELIGIBILITY FOR ELECTION.—The Secretary may by regulation designate one or more classes of corporations which may not make the election under this subsection.

“(f) RULES RELATING TO ALLOCATIONS OF QUALIFYING FOREIGN TRADE INCOME FROM SHARED PARTNERSHIPS.—

“(1) IN GENERAL.—If—

“(A) a partnership maintains a separate account for transactions (to which this subpart applies) with each partner,

“(B) distributions to each partner with respect to such transactions are based on the amounts in the separate account maintained with respect to such partner, and

“(C) such partnership meets such other requirements as the Secretary may by regulations prescribe,

then such partnership shall allocate to each partner items of income, gain, loss, and deduction (including qualifying foreign trade income) from any transaction to which this subpart applies on the basis of such separate account.

“(2) SPECIAL RULES.—For purposes of this subpart, in the case of a partnership to which paragraph (1) applies—

“(A) any partner’s interest in the partnership shall not be taken into account in determining whether such partner is a related person with respect to any other partner, and

“(B) the election under section 942(a)(3) shall be made separately by each partner with respect to any transaction for which the partnership maintains separate accounts for each partner.

“(g) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Any amount described in paragraph (1) or (3) of section 1385(a)—

“(1) which is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

“(2) which is allocable to qualifying foreign trade income and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

shall be treated as qualifying foreign trade income of such person for purposes of section 114. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(h) SPECIAL RULE FOR DISCS.—Section 114 shall not apply to any taxpayer for any taxable year if, at any time during the taxable year, the taxpayer is a member of any controlled group of corporations (as defined in section 927(d)(4), as in effect before the date of the enactment of this subsection) of which a DISC is a member.”

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(1) The second sentence of section 56(g)(4)(B)(i) is amended by inserting before the period “or under section 114”.

(2) Section 275(a) is amended—

(A) by striking “or” at the end of paragraph (4)(A), by striking the period at the end of paragraph (4)(B) and inserting “, or”, and by adding at the end of paragraph (4) the following new subparagraph:

“(C) such taxes are paid or accrued with respect to qualifying foreign trade income (as defined in section 941).”; and

(B) by adding at the end the following new sentence: “A rule similar to the rule of section 943(d) shall apply for purposes of paragraph (4)(C).”.

(3) Paragraph (3) of section 864(e) is amended—

(A) by striking “For purposes of” and inserting:

“(A) IN GENERAL.—For purposes of”; and

(B) by adding at the end the following new subparagraph:

“(B) ASSETS PRODUCING EXEMPT EXTRATERRITORIAL INCOME.—For purposes of allocating and apportioning any interest expense, there shall not be taken into account any qualifying foreign trade property (as defined in section 943(a)) which is held by the taxpayer for lease or rental in the ordinary course of trade or business for use by the lessee outside the United States (as defined in section 943(b)(2)).”.

(4) Section 903 is amended by striking “164(a)” and inserting “114, 164(a).”.

(5) Section 999(c)(1) is amended by inserting “941(a)(5),” after “908(a).”.

(6) The table of sections for part III of subchapter B of chapter 1 is amended by inserting before the item relating to section 115 the following new item:

“Sec. 114. Extraterritorial income.”.

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart E and inserting the following new item:

“Subpart E. Qualifying foreign trade income.”.

(8) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart C.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to transactions after September 30, 2000.

(b) NO NEW FSCS; TERMINATION OF INACTIVE FSCS.—

(1) NO NEW FSCS.—No corporation may elect after September 30, 2000, to be a FSC (as defined in section 922 of the Internal Revenue Code of 1986, as in effect before the amendments made by this Act).

(2) TERMINATION OF INACTIVE FSCS.—If a FSC has no foreign trade income (as defined in section 923(b) of such Code, as so in effect) for any period of 5 consecutive taxable years beginning after December 31, 2001, such FSC shall cease to be treated as a FSC for purposes of such Code for any taxable year beginning after such period.

(c) TRANSITION PERIOD FOR EXISTING FOREIGN SALES CORPORATIONS.—

(1) IN GENERAL.—In the case of a FSC (as so defined) in existence on September 30, 2000, and at all times thereafter, the amendments made by this Act shall not apply to any transaction in the ordinary course of trade or business involving a FSC which occurs—

(A) before January 1, 2002; or

(B) after December 31, 2001, pursuant to a binding contract—

(i) which is between the FSC (or any related person) and any person which is not a related person; and

(ii) which is in effect on September 30, 2000, and at all times thereafter.

For purposes of this paragraph, a binding contract shall include a purchase option, renewal option, or replacement option which is included in such contract and which is enforceable against the seller or lessor.

(2) ELECTION TO HAVE AMENDMENTS APPLY EARLIER.—A taxpayer may elect to have the amendments made by this Act apply to any transaction by a FSC or any related person to which such amendments would apply but for the application of paragraph (1). Such election shall be effective for the taxable year for which made and all subsequent taxable years, and, once made, may be revoked only with the consent of the Secretary of the Treasury.

(3) EXCEPTION FOR OLD EARNINGS AND PROFITS OF CERTAIN CORPORATIONS.—

(A) IN GENERAL.—In the case of a foreign corporation to which this paragraph applies—

(i) earnings and profits of such corporation accumulated in taxable years ending before October 1, 2000, shall not be included in the gross income of the persons holding stock in such corporation by reason of section 943(e)(4)(B)(i), and

(ii) rules similar to the rules of clauses (ii), (iii), and (iv) of section 953(d)(4)(B) shall apply with respect to such earnings and profits. The preceding sentence shall not apply to earnings and profits acquired in a transaction after September 30, 2000, to which section 381 applies unless the distributor or transferor corporation was immediately before the transaction a foreign corporation to which this paragraph applies.

(B) EXISTING FSCS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957) if—

(i) such corporation is a FSC (as so defined) in existence on September 30, 2000,

(ii) such corporation is eligible to make the election under section 943(e) by reason of being described in paragraph (2)(B) of such section, and

(iii) such corporation makes such election not later than for its first taxable year beginning after December 31, 2001.

(C) OTHER CORPORATIONS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957), and such corporation shall (notwithstanding any provision of section 943(e)) be treated as an applicable foreign corporation for purposes of section 943(e), if—

(i) such corporation is in existence on September 30, 2000,

(ii) as of such date, such corporation is wholly owned (directly or indirectly) by a domestic corporation (determined without regard to any election under section 943(e)),

(iii) for each of the 3 taxable years preceding the first taxable year to which the election under section 943(e) by such controlled foreign corporation applies—

(I) all of the gross income of such corporation is subpart F income (as defined in section 952), including by reason of section 954(b)(3)(B), and

(II) in the ordinary course of such corporation’s trade or business, such corporation regularly sold (or paid commissions) to a FSC which on September 30, 2000, was a related person to such corporation,

(iv) such corporation has never made an election under section 922(a)(2) (as in effect before the date of the enactment of this paragraph) to be treated as a FSC, and

(v) such corporation makes the election under section 943(e) not later than for its first taxable year beginning after December 31, 2001.

The preceding sentence shall cease to apply as of the date that the domestic corporation referred to in clause (ii) ceases to wholly own (directly or indirectly) such controlled foreign corporation.

(4) RELATED PERSON.—For purposes of this subsection, the term “related person” has the meaning given to such term by section 943(b)(3).

(5) SECTION REFERENCES.—Except as otherwise expressly provided, any reference in this subsection to a section or other provision shall be considered to be a reference to a section or other provision of the Internal Revenue Code of 1986, as amended by this Act.

(d) SPECIAL RULES RELATING TO LEASING TRANSACTIONS.—

(1) SALES INCOME.—If foreign trade income in connection with the lease or rental of property described in section 927(a)(1)(B) of such Code (as in effect before the amendments made by this Act) is treated as exempt foreign trade income for purposes of section 921(a) of such Code (as so in effect), such property shall be treated as property described in section 941(c)(1)(B) of such Code (as added by this Act) for purposes of applying section 941(c)(2) of such Code (as so added) to any subsequent transaction involving such property to which the amendments made by this Act apply.

(2) LIMITATION ON USE OF GROSS RECEIPTS METHOD.—If any person computed its foreign trade income from any transaction with respect to any property on the basis of a transfer price determined under the method described in section 925(a)(1) of such Code (as in effect before the amendments made by this Act), then the qualifying foreign trade income (as defined in section 941(a) of such Code, as in effect after such amendment) of such person (or any related person) with respect to any other transaction involving such property (and to which the amendments made by this Act apply) shall be zero.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Texas (Mr. ARCHER) and the gentleman from California (Mr. STARK) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is, once again, considering one of the most important bills of this Congress. It is critical for the continued U.S. competitiveness in the global marketplace. It is critical for our Nation's economic security. Most important, it is critical to preserve as many as 5 million jobs for American workers and their families. That is right, almost 5 million jobs hang in the balance.

Why? Because the U.S. has an ill-advised, antiquated system that overtaxes our businesses when they operate overseas and when they export, placing them at a gigantic disadvantage against their foreign competitors. This bill only partially addresses that gigantic disadvantage, a disadvantage so great that it is causing major U.S. businesses one by one to move overseas instead of being headquartered in the United States of America. This was evidenced recently by Chrysler becoming a German-based corporation, no longer headquartered in the U.S.

Mr. Speaker, we must pass this bill and have it signed into law immediately if we are to avert what could be the mother of all trade wars with the European Union. Last summer, the World Trade Organization ruled that our foreign sales corporation provisions in the U.S. Tax Code violated global trading rules. The U.S. appealed the decision, but lost; and the WTO set an original deadline of October 1 for the U.S. to comply with the decision. Despite a heroic effort by a bipartisan majority of members on the Committee on Ways and Means, the Senate Finance Committee, the White House, the Treasury, and the work of the Joint Committee on Taxation, we were unable to meet the October 1 deadline.

Now, to avoid immediate retaliation by the EU, the U.S. entered into an agreement with the EU which moved the deadline to November 1. Now that has also passed by. If we do not have this legislation signed into law by November 17, the EU will begin the ugly and devastating process of trade retaliation against American products, our workers, and our businesses. The clock is ticking, and only by acting now can we avoid a transatlantic trade war which will be destructive to all parties, perhaps to the world. There will be no winners in such a war, only losers; and

the biggest losers will be American workers whose products will no longer have access to the European market on a competitive basis.

Moreover, I believe that passage of this legislation today, which reflects a bipartisan compromise with the Senate, fully agreed to by the administration, will put us into compliance so that we can avoid retaliation, even if the EU should challenge the substance of the underlying proposal.

Mr. Speaker, we have had a remarkable economic surge in the past few years. Failing to act on this legislation could very well halt and even reverse that progress. We cannot risk that happening.

The substance of the Senate amendment to H.R. 4986 is identical to title I of H.R. 5542, the "Taxpayer Relief Act of 2000," incorporated by reference into the conference report on H.R. 2614. The Senate amendment, like the language in the conference report on H.R. 2614, is a compromise between the versions of H.R. 4986 passed by the House and reported by the Finance Committee. Since the statutory language has been modified slightly from the version of H.R. 4986 reported by the Committee on Ways and Means, I am introducing into the RECORD an explanation of the Senate amendment prepared by the staff of the Joint Committee on Taxation. This explanation is substantially identical to the relevant Statement of Managers language in H.R. 2614. Senator ROTH has similarly endorsed this explanation. Accordingly, taxpayers are welcome to rely on this explanation (or, for that matter, the Statement of Managers language in H.R. 2614) for guidance in interpreting the statute.

TECHNICAL EXPLANATION OF THE SENATE AMENDMENT TO H.R. 4986, THE "FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000"

I. INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, is a technical explanation of H.R. 4986 as passed by the Senate on November 1, 2000. H.R. 4986 was passed by the House of Representatives on September 13, 2000. The Senate Finance Committee favorably reported the bill with an amendment on September 19, 2000. The conference agreement to H.R. 2614 included legislation that resolved the differences between the House and Senate on this matter. The Senate amendment to H.R. 4986, as passed by the Senate on November 1, 2000, adopts the compromise language of the conference agreement to H.R. 2614.

II. OVERVIEW OF PRESENT-LAW FOREIGN SALES CORPORATION RULES

Summary of U.S. income taxation of foreign persons

Income earned by a foreign corporation from its foreign operations generally is subject to U.S. tax only when such income is distributed to a U.S. person that hold stock in such corporation. Accordingly, a U.S. person that conducts foreign operations through a foreign corporation generally is subject to U.S. tax on the income from those operations when the income is repatriated to the United States through a dividend distribution to the U.S. person. The income is reported on the U.S. person's tax return for the year the distribution is received, and the United States imposes tax on such income at that time. An indirect foreign tax credit may reduce the U.S. tax imposed on such income.

Foreign sales corporations

The income of an eligible foreign sales corporation ("FSC") is partially subject to U.S. income tax and partially exempt from U.S. income tax. In addition, a U.S. corporation generally is not subject to U.S. income tax on dividends distributed from the FSC out of certain earnings.

A FSC must be located and managed outside the United States, and must perform certain economic processes outside the United States. A FSC is often owned by a U.S. corporation that produces goods in the United States. The U.S. corporation either supplies goods to the FSC for resale abroad or pays the FSC a commission in connection with such sales. The income of the FSC, a portion of which is exempt from U.S. income tax under the FSC rules, equals the FSC's gross markup or gross commission income less the expenses incurred by the FSC. The gross markup or the gross commission is determined according to specified pricing rules.

A FSC generally is not subject to U.S. income tax on its exempt foreign trade income. The exempt foreign trade income of a FSC is treated as foreign-source income that is not effectively connected with the conduct of a trade or business within the United States.

Foreign trade income, other than exempt foreign trade income, generally is treated as U.S.-source income effectively connected with the conduct of a trade or business conducted through a permanent establishment within the United States. Thus, a FSC's income, other than exempt foreign trade income, generally is subject to U.S. tax currently and is treated as U.S.-source income for purposes of the foreign tax credit limitation.

Foreign trade income of a FSC is defined as the FSC's gross income attributable to foreign trading gross receipts. Foreign trading gross receipts generally are the gross receipts attributable to the following types of transactions: the sale of export property; the lease or rental of export property; services related and subsidiary to such a sale or lease of export property; engineering and architectural services for projects outside the United States; and export management services. Investment income and carrying charges are excluded from the definition of foreign trading gross receipts.

The term "export property" generally means property (1) which is manufactured, produced, grown or extracted in the United States by a person other than a FSC; (2) which is held primarily for sale, lease, or rental in the ordinary course of a trade or business for direct use or consumption outside the United States; and (3) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States. The term "export property" does not include property leased or rented by a FSC for use by any member of a controlled group of which the FSC is a member; patents, copyrights (other than films, tapes, records, similar reproductions, and other than computer software, whether or not patented), and other intangibles; oil or gas (or any primary product thereof); unprocessed softwood timber; or products the export of which is prohibited or curtailed. Export property also excludes property designated by the President as being in short supply.

If export property is sold to a FSC by a related person (or a commission is paid by a related person to a FSC with respect to export property), the income with respect to the export transaction must be allocated between the FSC and the related person. The taxable income of the FSC and the taxable income of the related person are computed based upon

a transfer price determined under section 482 or under one of two formulas specified in the FSC provisions.

The portion of a FSC's foreign trade income that is treated as exempt foreign trade income depends on the pricing rule used to determine the income of the FSC. If the amount of income earned by the FSC is based on section 482 pricing, the exempt foreign trade income generally is 30 percent of the foreign trade income the FSC derives from a transaction. If the income earned by the FSC is determined under one of the two formulas specified in the FSC provisions, the exempt foreign trade income generally is 15/23 of the foreign trade income the FSC derives from the transaction.

A FSC is not required or deemed to make distributions to its shareholders. Actual distributions are treated as being made first out of earnings and profits attributable to foreign trade income, and then out of any other earnings and profits. A U.S. corporation generally is allowed a 100 percent dividends-received deduction for amounts distributed from a FSC out of earnings and profits attributable to foreign trade income. The 100 percent dividends-received deduction is not allowed for nonexempt foreign trade income determined under section 482 pricing. Any distributions made by a FSC out of earnings and profits attributable to foreign trade income to a foreign shareholder is treated as U.S.-source income that is effectively connected with a business conducted through a permanent establishment of the shareholder within the United States. Thus, the foreign shareholder is subject to U.S. tax on such a distribution.

III. TECHNICAL EXPLANATION OF THE SENATE AMENDMENT TO H.R. 4986

Overview

The Senate amendment repeals the present-law FSC rules and replaces them with an exclusion for extraterritorial income. The Senate amendment, like the Senate Finance Committee reported version of the bill, does not include the provision in the House bill that provides a dividends-received deduction for certain dividends allocable to qualifying foreign trade income. The Senate amendment adopts the compromise language of the conference agreement to H.R. 2614.

Repeal of the FSC rules

The Senate amendment repeals the present-law FSC rules found in sections 921 through 927 of the Code.

Exclusion of extraterritorial income

The Senate amendment provides that gross income for U.S. tax purposes does not include extraterritorial income. Because the exclusion of such extraterritorial income is a means of avoiding double taxation, no foreign tax credit is allowed for income taxes paid with respect to such excluded income. Extraterritorial income is eligible for the exclusion to the extent that it is "qualifying foreign trade income." Because U.S. income tax principles generally deny deductions for expenses related to exempt income, otherwise deductible expenses that are allocated to qualifying foreign trade income generally are disallowed.

The Senate amendment applies in the same manner with respect to both individuals and corporations who are U.S. taxpayers. In addition, the exclusion from gross income applies for individual and corporate alternative minimum tax purposes.

Qualifying foreign trade income

Under the Senate amendment, qualifying foreign trade income is the amount of gross income that, if excluded, would result in a reduction of taxable income by the greatest of (1) 1.2 percent of the "foreign trading

gross receipts" derived by the taxpayer from the transaction, (2) 15 percent of the "foreign trade income" derived by the taxpayer from the transaction, or (3) 30 percent of the "foreign sale and leasing income" derived by the taxpayer from the transaction. The amount of qualifying foreign trade income derived using 1.2 percent of the foreign trading gross receipts is limited to 200 percent of the qualifying foreign trade income that would result using 15 percent of the foreign trade income. Notwithstanding the general rule that qualifying foreign trade income is based on one of the three calculations that results in the greatest reduction in taxable income, a taxpayer may choose instead to use one of the other two calculations that does not result in the greatest reduction in taxable income. Although these calculations are determined by reference to a reduction of taxable income (a net income concept), qualifying foreign trade income is an exclusion from gross income. Hence, once a taxpayer determines the appropriate reduction of taxable income, that amount must be "grossed up" for related expenses in order to determine the amount of gross income excluded.

If a taxpayer uses 1.2 percent of foreign trading gross receipts to determine the amount of qualifying foreign trade income with respect to a transaction, the taxpayer or any other related persons will be treated as having no qualifying foreign trade income with respect to any other transaction involving the same property. For example, assume that a manufacturer and a distributor of the same product are related persons. The manufacturer sells the product to the distributor at an arm's-length price of \$80 (generating \$30 of profit) and the distributor sells the product to an unrelated customer outside of the United States for \$100 (generating \$20 of profit). If the distributor chooses to calculate its qualifying foreign trade income on the basis of 1.2 percent of foreign trading gross receipts, then the manufacturer will be considered to have no qualifying foreign trade income and, thus, would have no excluded income. The distributor's qualifying foreign trade income would be 1.2 percent of \$100, and the manufacturer's qualifying foreign trade income would be zero. This limitation is intended to prevent a duplication of exclusions from gross income because the distributor's \$100 of gross receipts includes the \$80 of gross receipts of the manufacturer. Absent this limitation, \$80 of gross receipts would have been double counted for purposes of the exclusion. If both persons were permitted to use 1.2 percent of their foreign trading gross receipts in this example, then the related-person group would have an exclusion based on \$180 of foreign trading gross receipts notwithstanding that the related-person group really only generated \$100 of gross receipts from the transaction. However, if the distributor chooses to calculate its qualifying foreign trade income on the basis of 15 percent of foreign trade income (15 percent of \$20 of profit), then the manufacturer would also be eligible to calculate its qualifying foreign trade income in the same manner (15 percent of \$30 of profit). Thus, in the second case, each related person may exclude an amount of income based on their respective profits. The total foreign trade income of the related-person group is \$50. Accordingly, allowing each person to calculate the exclusion based on their respective foreign trade income does not result in duplication of exclusions.

Under the Senate amendment, a taxpayer may determine the amount of qualifying foreign trade income either on a transaction-by-transaction basis or on an aggregate basis for groups of transactions, so long as the groups are based on product lines or recognized industry or trade usage. Under the

grouping method, it is intended that taxpayers be given reasonable flexibility to identify product lines or groups on the basis of recognized industry or trade usage. In general, provided that the taxpayer's grouping is not unreasonable, it will not be rejected merely because the grouped products fall within more than one of the two-digit Standard Industrial Classification codes. The Secretary of the Treasury is granted authority to prescribe rules for grouping transactions in determining qualifying foreign trade income.

Qualifying foreign trade income must be reduced by illegal bribes, kickbacks and similar payments, and by a factor for operations in or related to a country associated in carrying out an international boycott, or participating or cooperating with an international boycott.

In addition, the Senate amendment directs the Secretary of the Treasury to prescribe rules for marginal costing in those cases in which a taxpayer is seeking to establish or maintain a market for qualifying foreign trade property.

Foreign trading gross receipts

Under the Senate amendment, "foreign trading gross receipts" are gross receipts derived from certain activities in connection with "qualifying foreign trade property" with respect to which certain "economic processes" take place outside of the United States. Specifically, the gross receipts must be (1) from the sale, exchange, or other disposition of qualifying foreign trade property; (2) from the lease or rental of qualifying foreign trade property for use by the lessee outside of the United States; (3) for services which are related and subsidiary to the sale, exchange, disposition, lease, or rental of qualifying foreign trade property (as described above); (4) for engineering or architectural services for construction projects located outside of the United States; or (5) for the performance of certain managerial services for unrelated persons. Gross receipts from the lease or rental of qualifying foreign trade property include gross receipts from the license of qualifying foreign trade property. Consistent with the policy adopted in the Taxpayer Relief Act of 1997, this includes the license of computer software for reproduction abroad.

Foreign trading gross receipts do not include gross receipts from a transaction if the qualifying foreign trade property or services are for ultimate use in the United States, or for use by the United States (or an instrumentality thereof) and such use is required by law or regulation. Foreign trading gross receipts also do not include gross receipts from a transaction that is accomplished by a subsidy granted by the government (or any instrumentality thereof) of the country or possession in which the property is manufactured.

A taxpayer may elect to treat gross receipts from a transaction as not foreign trading gross receipts. As a consequence of such an election, the taxpayer could utilize any related foreign tax credits in lieu of the exclusion as a means of avoiding double taxation. It is intended that this election be accomplished by the taxpayer's treatment of such items on its tax return for the taxable year. Provided that the taxpayer's taxable year is still open under the statute of limitations for making claims for refund under section 6511, a taxpayer can make redeterminations as to whether the gross receipts from a transaction constitute foreign trading gross receipts.

Foreign economic processes

Under the Senate amendment, gross receipts from a transaction are foreign trading gross receipts only if certain economic processes take place outside of the United States.

The foreign economic processes requirement is satisfied if the taxpayer (or any person acting under a contract with the taxpayer) participates outside of the United States in the solicitation (other than advertising), negotiation, or making of the contract relating to such transaction and incurs a specified amount of foreign direct costs attributable to the transaction. For this purpose, foreign direct costs include only those costs incurred in the following categories of activities: (1) advertising and sales promotion; (2) the processing of customer orders and the arranging for delivery; (3) transportation outside of the United States in connection with delivery to the customer; (4) the determination and transmittal of a final invoice or statement of account or the receipt of payment; and (5) the assumption of credit risk. An exception from the foreign economic processes requirement is provided for taxpayers with foreign trading gross receipts for the year of \$5 million or less.

The foreign economic processes requirement must be satisfied with respect to each transaction and, if so, any gross receipts from such transaction could be considered as foreign trading gross receipts. For example, all of the lease payments received with respect to a multi-year lease contract, which contract met the foreign economic processes requirement at the time it was entered into, would be considered as foreign trading gross receipts. On the other hand, a sale of property that was formerly a leased asset, which was not sold pursuant to the original lease agreement, generally would be considered a new transaction that must independently satisfy the foreign economic processes requirement.

A taxpayer's foreign economic processes requirement is treated as satisfied with respect to a sales transaction (solely for the purpose of determining whether gross receipts are foreign trading gross receipts) if any related person has satisfied the foreign economic processes requirement in connection with another sales transaction involving the same qualifying foreign trade property.

Qualifying foreign trade property

Under the Senate amendment, the threshold for determining if gross receipts will be treated as foreign trading gross receipts is whether the gross receipts are derived from a transaction involving "qualifying foreign trade property." Qualifying foreign trade property is property manufactured, produced, grown, or extracted ("manufactured") within or outside of the United States that is held primarily for sale, lease, or rental, in the ordinary course of a trade or business, for direct use, consumption, or disposition outside of the United States. In addition, not more than 50 percent of the fair market value of such property can be attributable to the sum of (1) the fair market value of articles manufactured outside of the United States plus (2) the direct costs of labor performed outside of the United States.

It is understood that under current industry practice, the purchaser of an aircraft contracts separately for the aircraft engine and the airframe, albeit contracting with the airframe manufacturer to attach the separately purchased engine. It is intended that an aircraft engine be qualifying foreign trade property (assuming that all other requirements are satisfied) if (1) it is specifically designed to be separated from the airframe to which it is attached without significant damage to either the engine or the airframe, (2) it is reasonably expected to be separated from the airframe in the ordinary course of business (other than by reason of temporary separation for servicing, maintenance, or repair) before the end of the useful life of ei-

ther the engine or the airframe, whichever is shorter, and (3) the terms under which the aircraft engine was sold were directly and separately negotiated between the manufacturer of the aircraft engine and the person to whom the aircraft will be ultimately delivered. By articulating this application of the foreign destination test in the case of certain separable aircraft engines, no inference is intended with respect to the application of any destination test under present law or with respect to any other rule of law outside the Senate amendment.

The Senate amendment excludes certain property from the definition of qualifying foreign trade property. The excluded property is (1) property leased or rented by the taxpayer for use by a related person, (2) certain intangibles, (3) oil and gas (or any primary product thereof), (4) unprocessed softwood timber, (5) certain products the transfer of which are prohibited or curtailed to effectuate the policy set forth in Public Law 96-72, and (6) property designated by Executive order as in short supply. In addition, it is intended that property that is leased or licensed to a related person who is the lessor, licensor, or seller of the same property in a sublease, sublicense, sale, or rental to an unrelated person for the ultimate and predominant use by the unrelated person outside of the United States is not excluded property by reason of such lease or license to a related person.

With respect to property that is manufactured outside of the United States, rules are provided to ensure consistent U.S. tax treatment with respect to manufacturers. The Senate amendment requires that property manufactured outside of the United States be manufactured by (1) a domestic corporation, (2) an individual who is a citizen or resident of the United States, (3) a foreign corporation that elects to be subject to U.S. taxation in the same manner as a U.S. corporation, or (4) a partnership or other pass-through entity all of the partners or owners of which are described in (1), (2), or (3) above.

Foreign trade income

Under the Senate amendment, "foreign trade income" is the taxable income of the taxpayer (determined without regard to the exclusion of qualifying foreign trade income) attributable to foreign trading gross receipts. Certain dividends-paid deductions of cooperatives are disregarded in determining foreign trade income for this purpose.

Foreign sale and leasing income

Under the Senate amendment, "foreign sale and leasing income" is the amount of the taxpayer's foreign trade income (with respect to a transaction) that is properly allocable to activities that constitute foreign economic processes (as described above). For example, a distribution company's profit from the sale of qualifying foreign trade property that is associated with sales activities, such as solicitation or negotiation of the sale, advertising, processing customer orders and arranging for delivery, transportation outside of the United States, and other enumerated activities, would constitute foreign sale and leasing income.

Foreign sale and leasing income also includes foreign trade income derived by the taxpayer in connection with the lease or rental of qualifying foreign trade property for use by the lessee outside of the United States. Income from the sale, exchange, or other disposition of qualifying foreign trade property that is or was subject to such a lease (i.e., the sale of the residual interest in the leased property) gives rise to foreign sale and leasing income. Except as provided in regulations, a special limitation applies to leased property that (1) is manufactured by the taxpayer or (2) is acquired by the tax-

payer from a related person for a price that was other than arm's length. In such cases, foreign sale and leasing income may not exceed the amount of foreign sale and leasing income that would have resulted if the taxpayer had acquired the leased property in a hypothetical arm's-length purchase and then engaged in the actual sale or lease of such property. For example, if a manufacturer leases qualifying foreign trade property that it manufactured, the foreign sale and leasing income derived from that lease may not exceed the amount of foreign sale and leasing income that the manufacturer would have earned with respect to that lease had it purchased the property for an arm's-length price on the day that the manufacturer entered into the lease. For purposes of calculating the limit on foreign sale and leasing income, the manufacturer's basis and, thus, depreciation would be based on this hypothetical arm's-length price. This limitation is intended to prevent foreign sale and leasing income from including profit associated with manufacturing activities.

For purposes of determining foreign sale and leasing income, only directly allocable expenses are taken into account in calculating the amount of foreign trade income. In addition, income properly allocable to certain intangibles is excluded for this purpose.

General example

The following is an example of the calculation of qualifying foreign trade income.

XYZ Corporation, a U.S. corporation, manufactures property that is sold to unrelated customers for use outside of the United States. XYZ Corporation satisfies the foreign economic processes requirement through conducting activities such as solicitation, negotiation, transportation, and other sales-related activities outside of the United States with respect to its transactions. During the year, qualifying foreign trade property was sold for gross proceeds totaling \$1,000. The cost of this qualifying foreign trade property was \$600. XYZ Corporation incurred \$275 of costs that are directly related to the sale and distribution of qualifying foreign trade property. XYZ Corporation paid \$40 of income tax to a foreign jurisdiction related to the sale and distribution of the qualifying foreign trade property. XYZ Corporation also generated gross income of \$7,600 (gross receipts of \$24,000 and cost of goods sold of \$16,400) and direct expenses of \$4,225 that relate to the manufacture and sale of products other than qualifying foreign trade property. XYZ Corporation also incurred \$500 of overhead expenses. XYZ Corporation's financial information for the year is summarized as follows:

	Total	Other property	OFTP
Gross receipts	\$25,000	\$24,000	\$1,000
Cost of goods sold	17,000	16,400	600
Gross income	8,000	7,600	400
Direct expenses	4,500	4,225	275
Overhead expenses	500		
Net income	3,000		

Illustrated below is the computation of the amount of qualifying foreign trade income that is excluded from XYZ Corporation's gross income and the amount of related expenses that are disallowed. In order to calculate qualifying foreign trade income, the amount of foreign trade income first must be determined. Foreign trade income is the taxable income (determined without regard to the exclusion of qualifying foreign trade income) attributable to foreign trading gross receipts. In this example, XYZ Corporation's foreign trading gross receipts equal \$1,000. This amount of gross receipts is reduced by

the related cost of goods sold, the related direct expenses, and a portion of the overhead expenses in order to arrive at the related taxable income. Thus, XYZ Corporation's foreign trade income equals \$100, calculated as follows:

Foreign trading gross receipts	\$1,000
Cost of goods sold	600
Gross income	400
Direct expenses	275
Apportioned overhead expenses	25
Foreign trade income	100

Foreign sale and leasing income is defined as an amount of foreign trade income (calculated taking into account only directly-related expenses) that is properly allocable to certain specified foreign activities. Assume for purposes of this example that of the \$125 of foreign trade income (\$400 of gross income from the sale of qualifying foreign trade property less only the direct expenses of \$275), \$35 is properly allocable to such foreign activities (e.g., solicitation, negotiation, advertising, foreign transportation, and other enumerated sales-like activities) and, therefore, is considered to be foreign sale and leasing income.

Qualifying foreign trade income is the amount of gross income that, if excluded, will result in a reduction of taxable income equal to the greatest of (1) 30 percent of foreign sale and leasing income, (2) 1.2 percent of foreign trading gross receipts, or (3) 15 percent of foreign trade income. Thus, in order to calculate the amount that is excluded from gross income, taxable income must be determined and then "grossed up" for allocable expenses in order to arrive at the appropriate gross income figure. First, for each method of calculating qualifying foreign trade income, the reduction in taxable income is determined. Then, the \$275 of direct and \$25 of overhead expenses, totaling \$300, attributable to foreign trading gross receipts is apportioned to the reduction in taxable income based on the proportion of the reduction in taxable income to foreign trade income. This apportionment is done for each method of calculating qualifying foreign trade income. The sum of the taxable income reduction and the apportioned expenses equals the respective qualifying foreign trade income (i.e., the amount of gross income excluded) under each method, as follows:

	1.2% FTGR ¹	15% FTI ²	30% FS&LI ³
Reduction of taxable income:			
1.2% of FTGR (1.2% * \$1,000)	12.00		
15% of FTI (15% * \$100)		15.00	
30% of FS&LI (30% * \$35)			10.50
Gross-up for disallowed expenses:			
\$300 * (\$12/\$100)	36.00		
\$300 * (\$15/\$100)		45.00	
\$275 * (\$10.50/\$100) ⁴			28.88
Qualifying foreign trade income	48.00	60.00	39.38

¹ "FTGR" refers to foreign trading gross receipts.

² "FTI" refers to foreign trade income.

³ "FS&LI" refers to foreign sale and leasing income.

⁴ Because foreign sale and leasing income only takes into account direct expenses, it is appropriate to take into account only such expenses for purposes of this calculation.

In the example, the \$60 of qualifying foreign trade income is excluded from XYZ Corporation's gross income (determined based on 15 percent of foreign trade income). In connection with excluding \$60 of gross income, certain expenses that are allocable to this income are not deductible for U.S. Federal income tax purposes. Thus, \$45 (\$300 of related expenses multiplied by 15 percent, i.e., \$60 of qualifying foreign trade income divided by \$400 of gross income from the sale of qualifying foreign trade property) of expenses are disallowed.

	Other property	QFTP	Ex- cluded/ dis- allowed	Total
Gross receipts	\$24,000	\$1,000		
Cost of goods sold	16,400	600		
Gross income	7,600	400	(60.00)	7,940.00
Direct expenses	4,225	275	(41.25)	4,458.75
Overhead expenses	475	25	(3.75)	496.25
Taxable income				2,985.00

XYZ Corporation paid \$40 of income tax to a foreign jurisdiction related to the sale and distribution of the qualifying foreign trade property. A portion of this \$40 of foreign income tax is treated as paid with respect to the qualifying foreign trade income and, therefore, is not creditable for U.S. foreign tax credit purposes. In this case, \$6 of such taxes paid (\$40 of foreign taxes multiplied by 15 percent, i.e., \$60 of qualifying foreign trade income divided by \$400 of gross income from the sale of qualifying foreign trade property) is treated as paid with respect to the qualifying foreign trade income and, thus, is not creditable.

The results in this example are the same regardless of whether XYZ Corporation manufactures the property within the United States or outside of the United States through a foreign branch. If XYZ Corporation were an S corporation or limited liability company, the results also would be the same, and the exclusion would pass through to the S corporation owners or limited liability company owners as the case may be.

Other rules

Foreign-source income limitation

The Senate amendment provides a limitation with respect to the sourcing of taxable income applicable to certain sale transactions giving rise to foreign trading gross receipts. This limitation only applies with respect to sale transactions involving property that is manufactured within the United States. The special source limitation does not apply when qualifying foreign trade income is determined using 30 percent of the foreign sale and leasing income from the transaction.

This foreign-source income limitation is determined in one of two ways depending on whether the qualifying foreign trade income is calculated based on 1.2 percent of foreign trading gross receipts or on 15 percent of foreign trade income. If the qualifying foreign trade income is calculated based on 1.2 percent of foreign trading gross receipts, the related amount of foreign-source income may not exceed the amount of foreign trade income that (without taking into account this special foreign-source income limitation) would be treated as foreign-source income if such foreign trade income were reduced by 4 percent of the related foreign trading gross receipts.

For example, assume that foreign trading gross receipts are \$2,000 and foreign trade income is \$100. Assume also that the taxpayer chooses to determine qualifying foreign trade income based on 1.2 percent of foreign trading gross receipts. Taxable income after taking into account the exclusion of the qualifying foreign trade income and the disallowance of related deductions is \$76. Assume that the taxpayer manufactured its qualifying foreign trade property in the United States and that title to such property passed outside of the United States. Absent a special sourcing rule, under section 863(b) (and the regulations thereunder) the \$76 of taxable income would be sourced as \$38 U.S. source and \$38 foreign source. Under the special sourcing rule, the amount of foreign-source income may not exceed the amount of the foreign trade income that otherwise would be treated as foreign source if the for-

ign trade income were reduced by 4 percent of the related foreign trading gross receipts. Reducing foreign trade income by 4 percent of the foreign trading gross receipts (4 percent of \$2,000, or \$80) would result in \$20 (\$100 foreign trade income less \$80). Applying section 863(b) to the \$20 of reduced foreign trade income would result in \$10 of foreign-source income and \$10 of U.S.-source income. Accordingly, the limitation equals \$10. Thus, although under the general sourcing rule \$38 of the \$76 taxable income would be treated as foreign source, the special sourcing rule limits foreign-source income in this example of \$10 (with the remaining \$66 being treated as U.S.-source income).

If the qualifying foreign trade income is calculated based on 15 percent of foreign trade income, the amount of related foreign-source income may not exceed 50 percent of the foreign trade income that (without taking into account this special foreign-source income limitation) would be treated as foreign-source income.

For example, assume that foreign trade income is \$100 and the taxpayer chooses to determine its qualifying foreign trade income based on 15 percent of foreign trade income. Taxable income after taking into account the exclusion of the qualifying foreign trade income and the disallowance of related deductions is \$85. Assume that the taxpayer manufactured its qualifying foreign trade property in the United States and that title to such property passed outside of the United States. Absent a special sourcing rule, under section 863(b) the \$85 of taxable income would be sourced as \$42.50 U.S. source and \$42.50 foreign source. Under the special sourcing rule, the amount of foreign-source income may not exceed 50 percent of the foreign trade income that otherwise would be treated as foreign source. Applying section 863(b) to the \$100 of foreign trade income would result in \$50 of foreign-source income and \$50 of U.S.-source income. Accordingly, the limitation equals \$25, which is 50 percent of the \$50 foreign-source income. Thus, although under the general sourcing rule \$42.50 of the \$85 taxable income would be treated as foreign source, the special sourcing rule limits foreign-source income in this example to \$25 (with the remaining \$60 being treated as U.S.-source income).

Treatment of withholding taxes

The Senate amendment generally provides that no foreign tax credit is allowed for foreign taxes paid or accrued with respect to qualifying foreign trade income (i.e., excluded extraterritorial income). In determining whether foreign taxes are paid or accrued with respect to qualifying foreign trade income, foreign withholding taxes generally are treated as not paid or accrued with respect to qualifying foreign trade income. Accordingly, the Senate amendment's denial of foreign tax credits would not apply to such taxes. For this purpose, the term "withholding tax" refers to any foreign tax that is imposed on a basis other than residence and that is otherwise a creditable foreign tax under sections 901 or 903. It is intended that such taxes would be similar in nature to the gross-basis taxes described in sections 871 and 881.

If, however, qualifying foreign trade income is determined based on 30 percent of foreign sale and leasing income, the special rule for withholding taxes is not applicable. Thus, in such cases foreign withholding taxes may be treated as paid or accrued with respect to qualifying foreign trade income and, accordingly, are not creditable under the Senate amendment.

Election to be treated as a U.S. corporation

The Senate amendment provides that certain foreign corporations may elect, on an

original return, to be treated as domestic corporations. The election applies to the taxable year when made and all subsequent taxable years unless revoked by the taxpayer or terminated for failure to qualify for the election. Such election is available for a foreign corporation (1) that manufactures property in the ordinary course of such corporation's trade or business, or (2) if substantially all of the gross receipts of such corporation are foreign trading gross receipts. For this purpose, "substantially all" is based on the relevant facts and circumstances.

In order to be eligible to make this election, the foreign corporation must waive all benefits granted to such corporation by the United States pursuant to a treaty. Absent such a waiver, it would be unclear, for example, whether the permanent establishment article of a relevant tax treaty would override the electing corporation's treatment as a domestic corporation under this provision. A foreign corporation that elects to be treated as a domestic corporation is not permitted to make an S corporation election. The Secretary is granted authority to prescribe rules to ensure that the electing foreign corporation pays its U.S. income tax liabilities and to designate one or more classes of corporations that may not make such an election. If such an election is made, for purposes of section 367 the foreign corporation is treated as transferring (as of the first day of the first taxable year to which the election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

If a corporation fails to meet the applicable requirements, described above, for making the election to be treated as a domestic corporation for any taxable year beginning after the year of the election, the election will terminate. In addition, a taxpayer, at its option and at any time, may revoke the election to be treated as a domestic corporation. In the case of either a termination or a revocation, the electing foreign corporation will not be considered as a domestic corporation effective beginning on the first day of the taxable year following the year of such termination or revocation. For purposes of section 367, if the election to be treated as a domestic corporation is terminated or revoked, such corporation is treated as a domestic corporation transferring (as of the first day of the first taxable year to which the election ceases to apply) all of its property to a foreign corporation in connection with an exchange to which section 354 applies. Moreover, once a termination occurs or a revocation is made, the former electing corporation may not again elect to be taxed as a domestic corporation under the provisions of the Senate amendment for a period of five tax years beginning with the first taxable year that begins after the termination or revocation.

For example, assume a U.S. corporation owns 100 percent of a foreign corporation. The foreign corporation manufactures outside of the United States and sells what would be qualifying foreign trade property were it manufactured by a person subject to U.S. taxation. Such foreign corporation could make the election under this provision to be treated as a domestic corporation. As a result, its earnings no longer would be deferred from U.S. taxation. However, by electing to be subject to U.S. taxation, a portion of its income would be qualifying foreign trade income. The requirement that the foreign corporation be treated as a domestic corporation (and, therefore, subject to U.S. taxation) is intended to provide parity between U.S. corporations that manufacture abroad in branch form and U.S. corporations that manufacture abroad through foreign subsidiaries. The election, however, is not

limited to U.S.-owned foreign corporations. A foreign-owned foreign corporation that wishes to qualify for the treatment provided under the Senate amendment could avail itself of such election (unless otherwise precluded from doing so by Treasury regulations).

Shared partnerships

The Senate amendment provides rules relating to allocations of qualifying foreign trade income by certain shared partnerships. To the extent that such a partnership (1) maintains a separate account for transactions involving foreign trading gross receipts with each partner, (2) makes distributions to each partner based on the amounts in the separate account, and (3) meets such other requirements as the Treasury Secretary may prescribe by regulations, such partnership then would allocate to each partner items of income, gain, loss, and deduction (including qualifying foreign trade income) from such transactions on the basis of the separate accounts. It is intended that with respect to, and only with respect to, such allocations and distributions (i.e., allocations and distributions related to transactions between the partner and the shared partnership generating foreign trading gross receipts), these rules would apply in lieu of the otherwise applicable partnership allocation rules such as those in section 704(b). For this purpose, a partnership is a foreign or domestic entity that is considered to be a partnership for U.S. Federal income tax purposes.

Under the Senate amendment, any partner's interest in the shared partnership is not taken into account in determining whether such partner is a "related person" with respect to any other partner for purposes of the Senate amendment's provisions. Also, the election to exclude certain gross receipts from foreign trading gross receipts must be made separately by each partner with respect to any transaction for which the shared partnership maintains a separate account.

Certain assets not taken into account for purposes of interest expense allocation

The Senate amendment also provides that qualifying foreign trade property that is held for lease or rental, in the ordinary course of a trade or business, for use by the lessee outside of the United States is not taken into account for interest allocation purposes.

Distributions of qualifying foreign trade income by cooperatives

Agricultural and horticultural producers often market their products through cooperatives, which are member-owned corporations formed under Subchapter T of the Code. At the cooperative level, the Senate amendment provides the same treatment of foreign trading gross receipts derived from products marketed through cooperatives as it provides for foreign trading gross receipts of other taxpayers. That is, the qualifying foreign trade income attributable to those foreign trading gross receipts is excluded from the gross income of the cooperative. Absent a special rule, however, patronage dividends or per-unit retain allocations attributable to qualifying foreign trade income paid to members of cooperatives would be taxable in the hands of those members. It is believed that this would disadvantage agricultural and horticultural producers who choose to market their products through cooperatives relative to those and individuals who market their products directly or through pass-through entities such as partnerships, limited liability companies, or S corporations. Accordingly, the Senate amendment provides that the amount of any patronage dividends or per-unit retain allo-

cations paid to a member of an agricultural or horticultural cooperative (to which Part I of Subchapter T applies), which is allocable to qualifying foreign trade income of the cooperative, is treated as qualifying foreign trade income of the member (and, thus, excludable from such member's gross income). In order to qualify, such amount must be designated by the organization as allocable to qualifying foreign trade income in a written notice mailed to its patrons not later than the payment period described in section 1382(d). The cooperative cannot reduce its income (e.g., cannot claim a "dividends-paid deduction") under section 1382 for such amounts.

Gap period before administrative guidance is issued

It is recognized that there may be a gap in time between the enactment of the Senate amendment and the issuance of detailed administrative guidance. It is intended that during this gap period before administrative guidance is issued, taxpayers and the Internal Revenue Service may apply the principles of present-law regulations and other administrative guidance under sections 921 through 927 to analogous concepts under the Senate amendment. Some examples of the application of the principles of present-law regulations to the Senate amendment are described below. These limited examples are intended to be merely illustrative and are not intended to imply any limitation regarding the application of the principles of other analogous rules or concepts under present law.

Marginal costing and grouping

Under the Senate amendment, the Secretary of the Treasury is provided authority to prescribe rules for using marginal costing and for grouping transactions in determining qualifying foreign trade income. It is intended that similar principles under present-law regulations apply for these purposes.

Excluded property

The Senate amendment provides that qualifying foreign trade property does not include property leased or rented by the taxpayer for use by a related person. It is intended that similar principles under present-law regulations apply for this purpose. Thus, excluded property does not apply, for example, to property leased by the taxpayer to a related person if the property is held for sublease, or is subleased, by the related person to an unrelated person and the property is ultimately used by such unrelated person predominantly outside of the United States. In addition, consistent with the policy adopted in the Taxpayer Relief Act of 1997, computer software that is licensed for reproduction outside of the United States is not excluded property. Accordingly, the license of computer software to a related person for reproduction outside of the United States for sale, sublicense, lease, or rental to an unrelated person for use outside of the United States is not treated as excluded property by reason of the license to the related person.

Foreign trading gross receipts

Under the Senate amendment, foreign trading gross receipts are gross receipts from among other things, the sale, exchange, or other disposition of qualifying foreign trade property, and from the lease of qualifying foreign trade property for use by the lessee outside of the United States. It is intended that the principles of present-law regulations that define foreign trading gross receipts apply for this purpose. For example, a sale includes an exchange or other disposition and a lease includes a rental or sublease and a license or a sublicense.

Foreign use requirement

Under the Senate amendment, property constitutes qualifying foreign trade property

if, among other things, the property is held primarily for lease, sale, or rental, in the ordinary course of business, for direct use, consumption, or disposition outside of the United States. It is intended that the principles of the present-law regulations apply for purposes of this foreign use requirement. For example, for purposes of determining whether property is sold for use outside of the United States, property that is sold to an unrelated person as a component to be incorporated into a second product which is produced, manufactured, or assembled outside of the United States will not be considered to be used in the United States (even if the second product ultimately is used in the United States), provided that the fair market value of such seller's components at the time of delivery to the purchaser constitutes less than 20 percent of the fair market value of the second product into which the components are incorporated (determined at the time of completion of the production, manufacture, or assembly of the second product).

In addition, for purposes of the foreign use requirement, property is considered to be used by a purchaser or lessee outside of the United States during a taxable year if it is used predominantly outside of the United States. For this purpose, property is considered to be used predominantly outside of the United States for any period if, during that period, the property is located outside of the United States more than 50 percent of the time. An aircraft or other property used for transportation purposes (e.g., railroad rolling stock, a vessel, a motor vehicle, or a container) is considered to be used outside of the United States for any period if, for the period, either the property is located outside of the United States more than 50 percent of the time or more than 50 percent of the miles traveled in the use of the property are traveled outside of the United States. An orbiting satellite is considered to be located outside of the United States for these purposes.

Foreign economic processes

Under the Senate amendment, gross receipts from a transaction are foreign trading gross receipts eligible for exclusion from the tax base only if certain economic processes take place outside of the United States. The foreign economic processes requirement compares foreign direct costs to total direct costs. It is intended that the principles of the present-law regulations apply during the gap period for purposes of the foreign economic processes requirement including the measurement of direct costs. It is recognized that the measurement of foreign direct costs under the present-law regulations often depend on activities conducted by the FSC, which is a separate entity. It is recognized that some of these concepts will have to be modified when new guidance is promulgated as a result of the Senate amendment's elimination of the requirement for a separate entity.

Effective date *In general*

The Senate amendment is effective for transactions entered into after September 30, 2000. In addition, no corporation may elect to be a FSC after September 30, 2000.

The Senate amendment also provides a rule requiring the termination of a dormant FSC when the FSC has been inactive for a specified period of time. Under this rule, a FSC that generates no foreign trade income for any five consecutive years beginning after December 31, 2001, will cease to be treated as a FSC.

Transition rules

Winding down existing FSCs and binding contract relief

The Senate amendment provides a transition period for existing FSCs and for binding

contractual agreements. The new rules do not apply to transactions in the ordinary course of business involving a FSC before January 1, 2002. Furthermore, the new rules do not apply to transactions in the ordinary course of business after December 31, 2001, if such transactions are pursuant to a binding contract between a FSC (or a person related to the FSC on September 30, 2000) and any other person (that is not a related person) and such contract is in effect on September 30, 2000, and all times thereafter. For this purpose, binding contracts include purchase options, renewal options, and replacement options that are enforceable against a lessor or seller (provided that the options are a part of a contract that is binding and in effect on September 30, 2000).

Old earnings and profits of corporations electing to be treated as domestic corporations

A transition rule also provided for certain corporations electing to be treated as a domestic corporation under the Senate amendment. In the case of corporation to which this transition rule applies, the corporation's earnings and profits accumulated in taxable years ending before October 1, 2000 are not included in the gross income of the shareholder by reason of the deemed asset transfer for section 367 purposes that the Senate amendment provides. Thus, although the electing corporation may be treated as transferring all of its assets to a domestic corporation in a reorganization described in section 368(a)(1)(F), the earnings and profits amount that would otherwise be treated as a deemed dividend to the U.S. shareholder under the regulations under section 367(b) will not include the earnings and profits accumulated in taxable years ending before October 1, 2000. This treatment is similar to the treatment of earnings and profits of a foreign insurance company that makes the election to be treated as a domestic corporation under section 953(d), which election was a model for the election to be treated as a domestic corporation under the Senate amendment. Under section 953(d), earnings and profits accumulated in taxable years beginning before January 1, 1988 were not included in the earnings and profits amount that would be a deemed dividend for section 367(b) purposes.

Like the pre-1988 earnings and profits of a domesticating foreign insurance company under section 953(d), the earnings and profits to which this transition rule applies would continue to be treated as earnings and profits of a foreign corporation even after the corporation elects to be treated as a domestic corporation. Thus, a distribution out of earnings and profits of an electing corporation accumulated in taxable years ending before October 1, 2000 would be treated as a distribution made by a foreign corporation. Rules similar to those applicable to corporations making the section 953(d) election that prevent the repatriation of pre-election period earnings and profits without current U.S. taxation apply for this purpose. Thus, for example, the earnings and profits accumulated in taxable years beginning before October 1, 2000 would continue to be taken into account for section 1248 purposes.

The earnings and profits to which the transition rule applies are the earnings and profits accumulated by the electing corporation in taxable years ending before October 1, 2000. The transition rule will not apply to earnings and profits accumulated before that date that are succeeded to after that date by the electing corporation in a transaction to which section 381 applies unless, like the electing corporation, the distributor or transferor (from whom the electing corporation acquired the earnings and profits) could have itself made the election under the Sen-

ate amendment to be treated as a domestic corporation and would have been eligible for the transition relief.

The transition rule for old earnings and profits applies to two classes of taxpayers. The first class is FSCs in existence on September 30, 2000 that make an election to be treated as a domestic corporation because they satisfy the requirement that substantially all of their gross receipts are foreign trading gross receipts. To be eligible for the transition relief, the election must be made not later than for the FSC's first taxable year beginning after December 31, 2001.

The second class of corporations to which this transition relief applies is certain controlled foreign corporations (as defined in section 957). Notwithstanding other requirements for making the election to be treated as a domestic corporation provided under the Senate amendment's general provisions, such controlled foreign corporations are eligible under the transition rule to make the election to be treated as a domestic corporation and will not have the resulting deemed asset transfer cause a deemed inclusion of earnings and profits for earnings and profits accumulated in taxable years ending before October 1, 2000. To be eligible for the transition relief, such a controlled foreign corporation must be in existence on September 30, 2000. The controlled foreign corporation must be wholly owned, directly or indirectly, by a domestic corporation. The controlled foreign corporation must never have made an election to be treated as a FSC and must make the election to be treated as a domestic corporation not later than for its first taxable year beginning after December 31, 2001. In addition, the controlled foreign corporation must satisfy certain tests with respect to its income and activities. For administrative convenience, these tests are limited to the three taxable years preceding the first taxable year for which the election to be treated as a domestic corporation applies. First, during that three-year period, all of the controlled foreign corporation's gross income must be subpart F income. Thus, the income was subject to full inclusion to the U.S. shareholder and, accordingly, subject to current U.S. taxation. Second, during that three-year period, the controlled foreign corporation must have, in the ordinary course of its trade or business, entered into transactions in which it regularly sold or paid commissions to a related FSC (which also was in existence on September 30, 2000). If an electing corporation in this second class ceases to be (directly or indirectly) wholly owned by the domestic corporation that owns it on September 30, 2000, the election to be treated as a domestic corporation is terminated.

Limitation on use of the gross receipts method

Similar to the limitation on use of the gross receipts method under the Senate amendment's operative provisions, the Senate amendment provides a rule that limits the use of the gross receipts method for transactions after the effective date of the Senate amendment if that same property generated foreign trade income to a FSC using the gross receipts method. Under the rule, if any person used the gross receipts method under the FSC regime, neither that person nor any related person will have qualifying foreign trade income with respect to any other transaction involving the same item of property.

Coordination of new regime with prior law

Notwithstanding the transition period, FSCs (or related persons) may elect to have the rules of the Senate amendment apply in lieu of the rules applicable to FSCs. Thus, for transactions to which the transition rules apply (i.e., transactions after September 30, 2000 that occur (1) before January

1, 2002 or (2) after December 31, 2001 pursuant to a binding contract which is in effect on September 30, 2000), taxpayers may choose to apply either the FSC rules or the amendments made by this Senate amendment, but not both. In addition, a taxpayer would not be able to avail itself of the rules of the Senate amendment in addition to the rules applicable to domestic international sales corporations because the Senate amendment provides that the exclusion of extraterritorial income will not apply if a taxpayer is a member of any controlled group of which a domestic international sales corporation is a member.

Mr. Speaker, I urge all Members to support this vital, time-sensitive legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

In the efforts of the new Congress to be gentler, although I am adamantly opposed to this bill, I would like to give the two best shots they have to the gentleman from Texas (Mr. ARCHER), the distinguished chairman of the Committee on Ways and Means, and the gentleman from Michigan (Mr. LEVIN), the distinguished ranking member of the Subcommittee on Trade. I want to give him 4 minutes, and we will proceed to destroy their arguments in subsequent time.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I deeply appreciate the gentleman yielding me this time, under any terms.

Mr. Speaker, I rise in support of this bill. It passed the House earlier this session, 315 to 109, and we are considering it again today because the Senate, as the gentleman from Texas (Mr. ARCHER) mentioned, made a modification with the agreement of the House and the administration.

Let me take a few minutes to review the history as to why this bill is on the floor today. Our country has what is known as a worldwide taxation system. In general, U.S. residents are taxed on income, regardless of where it is earned. Rules such as the foreign tax credit ensure against double taxation. By contrast, most European countries have a form of territorial taxation. Under those systems, income is taxed only if it is earned within the territory of the taxing jurisdiction. This system tends to favor exports over comparable domestic transactions.

To put our exports on a level playing field with Europe and others, we enacted in 1971 the Domestic International Sales Corporation Law, DISC. The European community successfully challenged that law in the GATT, and we successfully challenged the territorial tax regimes of Belgium, France, and the Netherlands. These disputes ultimately were resolved in 1981 by an understanding adopted by the GATT Council.

Based on the 1981 understanding, we replaced the DISC with FSC, the Foreign Sales Corporation statute. The

goal of that statute was to ensure that when U.S. producers of goods, both industrial and agricultural, export, our tax system does not put them at a disadvantage.

This system worked well for almost 20 years; but in 1988, the European Union decided to walk away from it and challenge the FSC. In its decision adopted by the WTO earlier this year, the FSC statute was held to violate WTO's subsidy rules and the U.S. was directed to withdraw the subsidy by October 1.

Whatever one may think of the reasoning of the WTO dispute panel, our commitment to a rules-based trading system requires that we bring our law into compliance with its decision, and this bill does that precisely. It does so in a way that makes our tax regime a bit more like a territorial tax regime.

What this bill does is to define a category of foreign source income that is excluded from gross income and, therefore, not subject to U.S. tax. It makes clear that to come within this category, income need not arise from an export transaction. Qualifying transactions will include certain sales of property produced outside the United States. Thus, this bill definitively eliminates the export contingency that the EU argued was a WTO inconsistency.

At the same time, and I emphasize this, as is clear from the bill itself in the committee report, this bill does not provide an incentive for U.S. producers to move their operations overseas. It carefully defines the property that can be involved in transactions subject to the new tax regime. No more than 50 percent of the fair market value of such property can consist of, a, non-U.S. components, plus, b, non-U.S. direct labor. This provision has been carefully reviewed by those of us on the Committee on Ways and Means, as well as the Department of Treasury, and, I might add, the minority leader.

Enactment of this bill is critical to U.S. businesses, workers, and farmers. The cloud of the WTO decision affects everyone from airplane manufacturers and manufacturers of other industrial products to software developers, to wheat growers, and so on. If we fail to enact this bill, there is a serious risk that the EU will go back to the WTO. It would cause great harm to U.S. businesses, to workers, and to farmers.

As I said in September, there are other issues, tobacco issues, pharmaceutical issues. They cannot be considered, though, within this bill. If we need to amend, to modify U.S. laws, we should do so later on. But we have a constraint. The deadline was October 1, now it is November 17; and if we fail to act by that date, as I said earlier in September, we are going to hurt American businesses and the workers who work for them, and we are simply going to help European competitors. As I said a month ago, if we want to help European producers, vote against this bill. But if we want to help American

workers, businesses and manufacturing goods, let us vote for this bill.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. CRANE), a respected member of the Committee on Ways and Means, who has worked so very hard on this legislation and the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I rise in strong support of this legislation, which fulfills the United States' obligation to bring the foreign sales corporation tax regime into compliance with WTO trade agreements. H.R. 4986 moves the U.S. closer to a territorial tax system, more like the one governing the international activities of so many European businesses.

Many issues divide the Congress in these days before and after the close national election. But with respect to the difficult choices facing us on FSC, both parties worked in concert with the administration to address a looming threat to innocent United States exporters. Make no mistake: this bill averts a trade war that is poised to hit unsuspecting U.S. exporters with millions of dollars of retaliatory tariffs.

Another issue we need to be very clear about, the FSC regime and its replacement reduced the anti-growth biases of our international tax system that would otherwise hamstring our companies and our workers. Some Members, even proponents of this legislation, sometimes have called the FSC replacement a subsidy. We need to be more careful with our language.

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This is not a subsidy. It is a partial, repeat, partial, reduction in an excessive tax burden our companies, and by extension, our workers, face when competing in the world economy.

By way of analogy, our current tax law is a felony. The fiscal replacement reduces the charge to a misdemeanor, but the net result still violates the economic law of neutrality that should govern all of our tax policies.

The European Union is challenging us, not as Republicans or Democrats, not as Congress or the administration, but as a country. By completing the difficult work necessary to send this bill to the President, we have put the United States in the best possible position to defend our interests in the WTO.

H.R. 4986 represents an achievement of bipartisan cooperation in the best interests of American businesses and workers. I urge a yes vote.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is an old rule of tax law which started with actually then Secretary of the Treasury Baker when we reformed the Tax Code under President Reagan. It was, if it quacks like a subsidy and walks like a subsidy and looks like a subsidy, it is a subsidy.

The distinguished chairman of the Subcommittee on Trade would discuss

the overburden of taxation. When the pharmaceutical companies charge our people, our seniors, our young people, two to four times more for the same drug that they charge people in Europe, and yet they have the lowest tax rate of any industry group in this country, why should we give them hundreds of millions of dollars of subsidy, gift, reduction? Members may call it what they want, but we are rewarding the pharmaceutical industry for charging less in Europe and more in this country.

Tell me what it is, Mr. Speaker. I call it disgraceful, I call it obscene, \$750 million a year to General Electric and Boeing to sell weapons, which they do not even sell, the State Department and the Defense Department arrange the sale of weapons. Yet, we give them a reduction of \$750 million a year? That is a subsidy, pure and simple.

Now, software was mentioned. Those poor folks in Seattle. Software? Do Members know how much Microsoft paid in taxes last year? Zero, Mr. Speaker, a goose egg. This big or this big, zero is still zero. Yet, they get a subsidy which gets them down to zero for all the software they sell overseas. Is that a gift? And this poor overtaxed Bill Gates is walking around, so we subsidize his sales overseas.

Mr. Speaker, we have been doing this for generations. For 25 years, we have been giving \$5 billion a year away in subsidies to corporations who would do the same thing whether or not they got this subsidy. And they do not set their prices based on their taxes. As any distinguished economist, like my friend, the gentleman from Illinois (Mr. CRANE), the distinguished chair of the Subcommittee on Trade, knows, corporations do not price their products based on taxes, they price their products based on competitive and manufacturing costs, all the other things, as he so well knows.

So all we are doing is giving a break, a tax break, a subsidy, to the richest corporations in this country, rewarding those corporations who gyp our senior citizens by overcharging in this country, by rewarding them.

And my distinguished friend, the gentleman from Texas, will tell us about tobacco, subsidizing the sale of tobacco to hook little kids in other parts of the world while we are trying to spend money here at home. Just think, if we had some of this \$5 billion a year to spend to train our children not to smoke, how much healthier and safer they would be. Think if we had some of this \$5 billion a year to spend on education to hire teachers, which the gentleman could not find the money to do on the Republican side. Think if we had this \$5 billion a year to provide a drug benefit to the senior citizens.

No, we are going to continue this charade and give this money away in unconscionable subsidies to the corporations who least need it for doing what they would do anyway. It is the silliest kind of gift to the people who

need it least, when we have people in this country who need help. We are turning our backs on the people in this country and helping the richest corporations in this country.

End this charade now and vote against this bill.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, first of all, with regard to tobacco subsidies, that would keep people from getting to the polls, I guess, if we eliminated subsidies.

But let me ask a second question. That is, do businesses pay taxes?

Mr. STARK. Most of these do not, no. Mr. CRANE. No, do businesses pay taxes?

Mr. STARK. Some businesses do. The ones getting the subsidy for the most part do not. They have so many loopholes and subsidies, as in this, that they end up paying no taxes.

Mr. CRANE. Will the gentleman go back to Econ 101? Businesses do not pay taxes and never have. That is a cost, like plant and equipment and labor are costs.

Mr. STARK. Mr. Speaker, this is my time and I reclaim it. That is as silly as supply side economics. The gentleman ought to know better.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise simply to say that the gentleman from California says that it is a corporate subsidy if we do not double tax all of the earnings overseas. We are one of the very few developed countries in the world that double taxes earnings overseas. So if we eliminate partially, only partially, the double taxation of those earnings to be only partially competitive with our foreign competitors, he calls it a subsidy. I do not believe the American people would agree with that.

Mr. Speaker, I include for the RECORD a letter from Secretary Summers on behalf of the administration strongly supporting this legislation.

The document referred to is as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, November 2, 2000.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enactment of legislation (H.R. 4986) repealing and replacing the Foreign Sales Corporation ("FSC") regime has been and remains a top priority for the President. As you know, H.R. 4986 is the product of a unique bipartisan effort involving the Administration, Chairmen Archer and Roth, Ranking Members Rangel and Moynihan, and their staffs.

It was carefully drafted to address issues raised by the WTO regarding the FSC regime. The Administration strongly supports passage of this legislation that has such important consequences for jobs, the national economy, and international relations with some of our most important trading partners.

Passage of H.R. 4986, is absolutely essential to avoiding the potential imposition by the European Union of significant sanctions on American industries and to satisfying the United States' obligations in the WTO. Failure to pass this legislation immediately will compromise the United States' ability to avoid a confrontation with the European Union. Moreover, it would jeopardize an important procedural agreement reached with the European Union to this end. The procedural agreement delays the possibility of retaliation by ensuring that the WTO will review the new replacement legislation before any decision may be made authorizing retaliation. The benefits of the agreement, however, are contingent upon the immediate enactment of the FSC replacement legislation. Therefore, I urge you in the strongest possible terms to allow the House to act on H.R. 4986 as soon as possible.

Sincerely,
LAWRENCE H. SUMMERS,
Secretary.

Mr. Speaker, I include for the RECORD a statement of administration policy from OMB strongly supporting this legislation.

The document referred to is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT
AND BUDGET,

Washington, DC, September 12, 2000.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies)

H.R. 4986—FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000 (ARCHER (R) TEXAS)

The Administration strongly supports H.R. 4986, which would repeal provisions of the Internal Revenue Code relating to foreign sales corporations and provide an exclusion from U.S. tax for certain income earned overseas.

H.R. 4986 addresses the issues with respect to foreign sales corporations (FSCs) that were raised by the World Trade Organization (WTO) Appellate Body decision in February 2000. Because the legislation provides an exclusion for certain income earned overseas (referred to as "qualifying foreign trade income"), there is no forgone revenue that would otherwise be due and thus there is no subsidy. Further, by treating all qualifying foreign sales alike, regardless of whether the goods were manufactured in the United States or abroad, the proposed legislation is not export-contingent.

H.R. 4986 has been developed through an extraordinary bipartisan, bicameral process. The Administration believes that enactment of this law, prior to October 1, 2000, is necessary to avoid an immediate confrontation with the European Union (EU), to ensure that the United States is in compliance with the WTO Appellate Body decision, and to avoid possible sanctions that would otherwise be imposed by the EU. This legislation would assure that no U.S. companies are disadvantaged. Passage of this legislation is the only way to avoid potential EU sanctions against U.S. exports.

PAY-AS-YOU-GO SCORING

H.R. 4986 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. The Joint Committee on Taxation estimates that the bill would produce revenue losses of \$1.5 billion in fiscal years 2001 through 2005. The Administration's scoring of the bill is under development. The Administration will work with Congress to avoid an unintended sequester.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means, who has worked very closely with us from beginning to end on a bipartisan basis to get to where we are today, and who has contributed a great deal to this legislation.

(Mr. RANGEL asked and was given permission to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, let me thank the chairman of the Committee on Ways and Means, the gentleman from Texas (Mr. ARCHER), my fellow Democrats, and join my colleagues on the floor in asking support for this piece of legislation, which is supported by the President and which our official Secretary Stuart Eizenstat, assistant Secretary Jon Talisman, have worked on, as well as the Senate, which has made some changes here.

It is interesting to note the concerns that some of my colleagues have about the policies of some of our domestic corporations, especially those dealing with pharmaceutical products, as well as tobacco.

It would seem to me within this body and the other body that we should be able to determine from a domestic point of view exactly to what extent we expect to control the conduct of these businesses in the United States.

But much like foreign policy, with all of the problems I have with my government, somehow when I leave the United States, those problems disappear when I am dealing with foreign bodies. I have concerns about the production and sale of tobacco, but not to the extent that I am prepared to accept a criticism of a foreign body as to how we conduct international business. This is especially so since I have more criticism about how foreign countries conduct their business, and I am not allowed to participate in terms of what I think is right and what I think is wrong and what I think is totally unfair.

For that reason, I have to support those people who diplomatically and legally have to work with the World Trade Organization, knowing that if we do not support our diplomatic efforts in this area, then it allows foreigners to arbitrarily select how they are going to penalize American businesses, American exports, American workers.

I just do not like that one bit. I do not like the idea that they can arbitrarily select those exports that we have that have nothing to do with pharmaceuticals, nothing to do with tobacco, and decide they have to punish us because they do not like the way we treat our exports.

We do not mind them looking over as to whether or not we have been fair in creating an even playing field for all of our businesses. We do not mind if they say they want to come to the table and renegotiate how we do this thing so we can say we do not like the way they treat their companies that are doing exports.

But it does appear to me that when we are dealing with the European Union, when we are dealing with the World Trade Organization, we should be able to stand by those people who negotiate on behalf of the United States of America, United States businesses, and those Americans.

We should be able to distinguish between our concern about how we treat American businesses here, how we penalize them for conduct that we think is unhealthy to the environment or to our people, distinguish that as it appears to be when foreigners are attempting to critique us, and indeed, provide sanctions against American businesses, the American community, American workers, and indeed, I would say, America in general.

So while I do not challenge the good-faith interests people have in challenging this legislation, I ask my colleagues to support it. For those that have reservations, I ask them to continue to study and find ways that we can reach objectives they want.

But on the international playing field, that flag should be flying for us. I support the flag, I support those people that negotiated with the WTO. I hope in the final analysis we get better than a fair advantage as it relates to American businesses, because as far as I am concerned, the more jobs for America, the better country we have.

Mr. STARK. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from Texas (Mr. DOGGETT).

□ 1030

Mr. Speaker, this bill has a whopping cost to Americans of \$42 billion in this decade. To be bipartisan about it, in the words of Senator JOHN MCCAIN, "this legislation is an example of the costly corporate welfare that cripples our ability to respond to truly urgent social needs." Indeed it is.

To make matters worse, despite all the proclamations about how urgent this bill is and how we will avoid a trade war and save all of these jobs, to make matters worse, this bill does not work. And even its supporters concede in private that it will not work and that we will be back here as soon as the World Trade Organization considers and rejects this bill, doing this all over again, because of the well justified criticism that has been levied against this very obvious straight subsidy.

With good reason, the Europeans have already rejected this ill-conceived proposal. Not only does it not work in the world forum, it does not work, according to even Republican sources, like the Republican Congressional Budget Office. It announced in March of this year that "export subsidies" such as this bill "reduce economic welfare and typically even reduce the welfare of the country granting the subsidy."

The assistant director of the General Accounting Office in August of this year said "most of the benefits are re-

ceived by a small number of large corporations." He noted: "Policymakers have available a number of tax and other government incentives that meet WTO standards, and that could be expanded to replace the prohibited direct tax subsidy provided by the FSC tax regime."

And to those who say they want more free trade, this bill does not provide free trade. It provides distorted trade and chooses winners and losers. This legislation asks local stores that sell groceries and clothing to customers at a mall or along Main Street across this country to pay higher taxes than the multinationals that sell cigarettes and machine guns abroad.

Mr. Speaker, \$4 of every \$5 in this bill go to companies that have assets exceeding \$1 billion. It offers no significant benefit to smaller companies in this country.

Indeed, I think the Congress ought to heed the words of commentator Paul Magnusson in "Business Week" on September 4 of this year who wrote that "the larger problem with subsidies is that they invite countersubsidies and so accomplish little besides transferring money from consumers and taxpayers to politically powerful producers"; and that is exactly what is happening today. I agree with that commentary that "it's time to call a halt to such waste by both sides; getting rid of subsidies for exports would be a good place to start. The Clinton administration should drop its plans to expand FSC and get back to the negotiating table and start proposing some real solutions such as eliminating all export subsidies."

Indeed, the administration should have done just that. Now who is driving the corporate welfare Cadillacs that are lining up outside the Capitol to get more welfare under this proposal? Well, driver number one is Mr. Phillip Morris and the tobacco lobby. They get \$100 million a year under this proposal to export death and disease to the rest of the world, to use the slick tactics that they developed here in America addicting our children to nicotine in order to encourage a global pandemic addicting the children of the world.

And to my colleagues from the tobacco-producing States, the industry does not even have to use American tobacco. All they have to do is slip a little Marlboro label on the package and they can use exclusively foreign tobacco, and still be tax subsidized by American taxpayers to the tune of over \$100 million a year to promote death and disease.

The Clinton administration agreed to oppose this wrong. The administration were true to the last minute; and then they abandoned, in the face of the lobbying power of the tobacco industry, their stated willingness to end this promotion of death and disease.

Who is the second big corporate welfare Cadillac driver? There has been the suggestion that we could not have any amendments to this bill. Well,

there was an amendment that was done behind closed doors, and the effect was to double, absolutely double with an increase by \$300 million every year the amount of money that those who make weapons in this country will get by selling them abroad.

We already dominate the world scene in terms of the manufacture of weapons being sent to every arms race in every corner of the world. But under this bill, American tax payers will have to subsidize and offer more corporate welfare to those weapon manufacturers to keep up the good business they have that results in death and destruction all over this world.

Instead of being a leader and trying to reduce the amount of those arms races around the world, we are subsidizing it to the tune of \$300 million more, even though last year, the Treasury said it was not a good idea, and the Defense Department, in 1994, indicated it was not necessary. Even though Republican groups in this Congress said it was unwise, they could not, in an election year, resist the dominance and power of the arms manufacturers.

And then another driver of this corporate welfare Cadillac is the pharmaceutical industry. It is an industry that today gets a reward for making prescriptions here in America and selling them for less abroad. They will get a tax subsidy, a bit of corporate welfare, for doing that at the same time they gouge consumers at home. This bill is wrong, that is why it was done behind closed doors, that is why they are fearful of amendments and discussion and it ought to be rejected.

Mr. DOGGETT. Mr. Speaker, this bill has a long title, but it is quite simply a welfare bill. It has a huge price tag that will cost Americans billions of dollars. It has been prepared entirely behind closed doors by those who will receive the welfare benefits. With the blessing of both the Clinton administration and the Republican leadership here in Congress, a very interesting process was followed: If one was going to get something out of this bill, they were invited to the behind-closed-doors negotiations. If they were left out, they were excluded from the negotiations to prepare this legislation.

Once this product of all of the clandestine wheeling and dealing sessions was presented to this Congress, every effort was made, both here in the House and across the Capitol in the Senate, to ensure that no questions were asked and no amendments were offered. There was as little talk possible about all of this behind-the-scenes wheeling and dealing to get as much welfare for themselves, by some who wrote the bill, as they possibly could: "Do not look at the details of the largesse, just give it to us as fast as you can."

This bill represents everything that is wrong with the special interest domination of the legislative process in America today. It provides ample justification for the cynicism that more

and more Americans have that their government is not serving them, but serving only those who can afford to have a lobbyist and a political action committee located in Washington.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Illinois (Mr. CRANE) will control the time for the majority.

There was no objection.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have recognition of my opponents' opposition here to our bill. We had Smoot-Hawley in our party, and they shared many of the same convictions we heard here tonight. But I am happy that the gentleman from Missouri (Mr. GEPHARDT) and the gentleman from New York (Mr. RANGEL), our ranking minority member, are supportive of this bipartisan legislation.

Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania (Mr. ENGLISH), our distinguished colleague.

Mr. ENGLISH. Mr. Speaker, I am delighted to be here to urge strong bipartisan support for this very important legislation. Legislation that may be the most important action we take at the close of this Congress, and perhaps for years to come.

This is critical legislation to protect the jobs of working families who have members who work in some of our best-paying export oriented jobs in America. I am surprised to hear the strange rhetoric on the floor of this House that is essentially rhetoric directed against their jobs.

We have heard the opponents of this legislation adopt the same rhetoric of our European trade competitors in criticizing our tax system. The thing to understand and what FSC is intended to address, this legislation is not a welfare bill, corporate or otherwise. It is not a subsidy. It is an adjustment of our tax system to establish a level playing field, and that is what our European trade competitors have not wanted.

FSC was originally created and made necessary, only because the U.S. maintains an archaic worldwide tax system which taxes foreign-source income and because the U.S. taxes export income. By refusing to reform FSC today, this Congress would be inviting massive retaliation against U.S. export trade leaving our exporters and their employees high and dry. Failing to reform FSC today would make an already tough global market next to impossible for U.S. employers to compete in.

If we do not act today, we would impose a huge cost on the economy of this country, particularly on some of the industries in manufacturing that have the best paying jobs. If we do not act today, we would put our workers at a competitive disadvantage and effectively balance our budget on their backs.

Mr. Speaker, if we do not act today, we will explode our already large trade deficit and put our economy in a down-

ward spiral because, if we do not act today, we will set up the dynamics for a trade war between Europe and the United States. We cannot afford that. They cannot afford that. We should not move down this slippery slope.

Pass this legislation. It is the one responsible thing we can do today.

Mr. STARK. Mr. Speaker, I am happy to yield 30 seconds to the gentleman from Guam (Mr. UNDERWOOD).

(Mr. UNDERWOOD asked and was given permission to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, I rise to express my concerns regarding H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. I urge congressional leaders and the Clinton administration to help the U.S. territories who will be adversely impacted by this legislation, particularly the U.S. Virgin Islands and Guam when the House reconvenes in December.

In Guam, there are over 200 FSC licenses generating around \$170,000 to the government of Guam. However, license fees are only some of the direct benefits from FSC. Other direct benefits include compensation for the professional community. But be that as it may, I am appealing to the Clinton administration, particularly the Treasury Department, to offset the economic impact of today's legislation by allowing territories to promote economic self-sufficiency, including establishing empowerment zones for the territories and tax equity treatment for Guam.

Mr. Speaker, I rise to express my concerns regarding H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. I urge congressional leaders and the Clinton administration to help the U.S. territories who will be adversely impacted by this legislation, particularly the U.S. Virgin Islands and Guam, when the House reconvenes in December.

Since the WTO decision last fall on Foreign Sales Corporations (FSCs), I know that the administration worked closely with House Ways and Means Committee Chairman ARCHER and Representative RANGEL, the ranking member, to ensure that the United States passes legislation to meet the October 1, 2000, deadline set by the WTO to comply with its ruling. Although the deadline has passed, today's passage of H.R. 4986 is necessary to fulfill a commitment by U.S. officials to address the concerns raised by the European Union.

As many of you know, the WTO panel issued a ruling last fall that subsidies for Foreign Sales Corporations under U.S. tax laws violated the WTO Subsidies Agreement. U.S. negotiators have since worked in good faith on a proposal to retain many of the tax benefits of the FSC structure, while establishing a new structure which would be responsive to the European Union's challenge.

However, I simply want to express my concern over the impact that H.R. 4986 would have on the U.S. territories. Under the current FSC system, U.S. territories have been able to benefit through tax exemptions for U.S. exporting industries. With the repeal of the FSC system, we will no longer be able to offer this incentive although I understand that current contracts will be honored.

In Guam, there are around 211 FSC licensees, generating around \$170,000 to the Government of Guam. However, license fees are only some of the direct benefits from FSCs. Other direct benefits include compensation for Guam attorneys and other professionals, bank deposits, and funds generated through the hotel and restaurant industries that host FSC corporate meetings. Indirect benefits would be the cumulative effect that FSCs and other tax incentives have on attracting U.S. businesses to Guam.

Be it as it may, the writing is on the wall for FSCs as we now know it. Therefore, I am appealing to the Clinton administration, particularly the Treasury Department, to offset the economic impact of today's legislation with the means necessary to allow the U.S. territories to promote economic self-sufficiency during any negotiations with the Congress on any final omnibus budget or tax package.

Apart from H.R. 3247, which would provide empowerment zones for the U.S. territories, I have worked closely with my colleagues to enact legislation that I authorized which would level the playing field for foreign investors in Guam through the passage of the Guam Foreign Direct Investment Equity Act.

My legislation would provide Guam with the same tax rates as the fifty states under international tax treaties. Since the U.S. cannot unilaterally amend treaties to include Guam in its definition of United States, my bill amends Guam's Organic Act, which has an entire tax section that "mirrors" the U.S. Internal Revenue Code.

As background, under the U.S. Code, there is a 30 percent withholding tax rate for foreign investors in the United States. Since Guam's tax law "mirrors" the rate established under the U.S. Code, the standard rate for foreign investors in Guam is 30 percent.

The Guam Foreign Direct Investment Equity Act provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties with foreign countries since Guam cannot change the withholding tax rate on its own under current law. Under U.S. Tax treaties, it is a common feature for countries to negotiate lower withholding rates on investment returns. Unfortunately, while there are different definitions for the term "United States" under these treaties, Guam is not included. Such an omission has adversely impacted Guam since 75 percent of Guam's commercial development is funded by foreign investors. As an example, with Japan, the U.S. rate for foreign investors is 10 percent. That means while Japanese investors are taxed at a 10 percent withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30 percent withholding rate on Guam.

While the long term solution is for U.S. negotiators to include Guam in the definition of the term "United States" for all future tax treaties, the immediate solution is to amend the Organic Act of Guam and authorize the Government of Guam to tax foreign investors at the same rates as the fifty states. Other territories under U.S. jurisdiction have already remedied this problem through Delinkage, their unique covenant agreements with the federal government, or through federal statute. Guam, therefore, is the only state or territory in the United States which is unable to take advantage of this tax benefit.

As the House considers H.R. 4986, as amended by the Senate, I implore my col-

leagues and the Clinton Administration to support the Guam Foreign Direct Investment Equity Act to offset the adverse impact of H.R. 4986 on Guam. Please include equitable tax treatment for foreign investors in Guam during any final omnibus budget or tax package.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), our distinguished colleague.

Mrs. CHRISTENSEN. Mr. Speaker, I want to thank the distinguished gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade, for yielding me this time to speak on an issue that is very important to all of the territories, and my constituents included.

Mr. Speaker, while H.R. 4986 is clearly necessary for our country to avoid having sanctions imposed on us by the European Union, for me and the people of the Virgin Islands, who I represent, its enactment into law will mean the loss of nearly \$11 million to our already depressed local treasury.

Through no fault of our own and despite the efforts of my colleagues on the Committee on Ways and Means and the administration to mitigate the adverse effects on us, the Virgin Islands stands to lose hundreds of direct and indirect jobs in the FSC industry, in addition to the millions in FSC franchise fees that the local government collects.

This action by the European Union to challenge our FSC program in the WTO could not have come at a worse time for the Virgin Islands as our local economy continues to suffer from the effects of 10 years of devastation from several killer hurricanes.

What I want my colleagues to understand that while this bill is necessary because of what it means for the country, it is a blow for the people of the Virgin Islands and the other territories. It is my intention to continue to work with my colleagues in the Congress and the administration to assist the Virgin Islands and the other territories in replacing the loss of this program and the loss of revenues that this bill will mean for us.

Mr. Speaker, I thank the gentleman from Illinois once again for yielding me this time.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

(Mr. DEFAZIO asked and was given permission to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, I rise in strong opposition to the legislation.

We again find ourselves debating replacing a rather arcane section of the tax code that allows corporations to avoid a portion of their tax bill by establishing largely paper entities in a filing cabinet in a tax haven like Barbados with the equally arcane tax provisions of H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.

And, once again, the legislation has been brought to the floor under suspension of the rules, which cuts off any ability to improve what is a truly dismal bill.

Creating this new, expanded loophole to assist corporations in escaping their fair share of the tax burden in the U.S. makes a mockery of pleas by my colleagues to simplify the tax code and improve fairness.

For nearly two decades, beginning with the Revenue Act of 1971 (P.L. 92-178), the U.S. provided tax incentives for exports. However, our trading partners complained that these incentives violated our commitments under the General Agreement on Tariffs and Trade (GATT). While not conceding the violation, in 1984, Congress scrapped the Domestic International Sales Corporation (DISC) provisions and created the Foreign Sales Corporation (FSC) provisions. The differences are highly technical and probably only understood by international tax bureaucrats.

Under the FSC provision, corporations can exempt between 15 and 30 percent of their export income from taxation by routing a portion of their exports through a FSC. Our trading partners, specifically the European Union (EU), were not satisfied with the somewhat cosmetic changes made to the U.S. tax code.

Going back on a verbal gentleman's agreement not to challenge our respective tax codes under global trading rules, the EU filed a complaint with the World Trade Organization (WTO), successor to GATT, essentially arguing the same thing that was argued about DISCs. Namely that export subsidies were illegal under global trading rules by conferring an unfair advantage on recipient companies.

A secretive WTO tribunal ruled against the U.S. Dutifully, the U.S. appealed the decision. Earlier this year, the WTO appeals panel upheld the earlier decision and ordered the U.S. to repeal the FSC provision or risk substantial retaliatory measures.

Specifically, the WTO appeals panel wrote, "By entering into the WTO Agreement, each Member of the WTO has imposed on itself an obligation to comply with all terms of that Agreement. This is a ruling that the FSC measure does not comply with all those terms. The FSC measure creates a 'subsidy' because it creates a 'benefit' by means of a 'financial contribution', in that government revenue is foregone that is 'otherwise due.' This 'subsidy' is a 'prohibited export subsidy' under the SCM Agreement [Agreement on Subsidies and Countervailing Measures] because it is contingent on export performance. It is also an export subsidy that is inconsistent with the Agreement on Agriculture. Therefore, the FSC Measure is no consistent with the WTO obligations of the United States."

In other words, it is unfair and illegal under global trade rules for the U.S. tax code to provide welfare for corporations by allowing them to escape taxes that would otherwise be due.

At this point, one would expect that my colleagues who, on most occasions eloquently defend the need for "rules based trade" and "free markets", to adhere to the WTO directive and repeal FSC. Because I assumed my colleagues would want to be intellectually consistent, I introduced legislation shortly after the WTO ruling to repeal FSC.

After all, precedent proved the U.S. was more than willing to bend to the will of the WTO. When the WTO ruled against a provision of the 1990 Clean Air Act, the Environmental Protection Agency gutted its clean air regulations in order to allow dirtier gasoline from Venezuela to be sold in the U.S.

Similarly, when Mexico threatened a WTO enforcement action on a 1991 GATT case it

had won that eviscerated the Dolphin Protection Act, the U.S. went along to get along. In fact, the Clinton Administration sent a letter to Mexican President Ernesto Zedillo declaring that weakening the standard by which tuna must be caught in "dolphin-safe" nets "is a top priority for my administration and me personally."

The WTO also ruled against the Endangered Species Act provisions that required U.S. and foreign shrimpers to equip their nets with inexpensive turtle excluder devices if they wanted to sell shrimp in the U.S. market. The goal was to protect endangered sea turtles. The Clinton Administration agreed to comply with the ruling.

Given this record of acquiescing to the WTO, one could be forgiven for assuming the Clinton Administration and Congress would behave in a similar manner when losing a case on tax breaks for corporations.

Of course, sea turtles and dolphins don't make massive campaign contributions, or any campaign contributions for that matter. But, the large corporations who would be impacted by the WTO decisions against FSCs do.

Apparently not bothered by the hypocrisy, immediately after the ruling by the WTO appeals panel, the Clinton Administration, a few Members of Congress, and the business community openly declared the need to maintain the subsidy in some form and began meeting in secret to work out the details on how to circumvent the WTO ruling and maintain these valuable, multi-billion dollar tax incentives.

Now, it is well-known that I am not a big fan of the WTO. It is an unaccountable, secretive, undemocratic bureaucracy that looks out solely for the interests of multinational corporations and investors at the expense of human rights, labor standards, national sovereignty, and the environment.

But, by pointing out that export subsidies like FSCs are corporate welfare, however, the WTO has done U.S. taxpayers a favor. Unfortunately, this legislation before us today only does wealthy corporations a favor.

I have several problems with H.R. 4986 besides the intellectual inconsistency. I will touch on each of these now.

First, and perhaps most importantly, there is little or no economic rationale for export subsidies like FSCs or the provisions of H.R. 4986. In its April 1999 Maintaining Budgetary Discipline report, the Congressional Budget Office (CBO) noted "Export subsidies, such as FSCs, reduce global economic welfare and may even reduce the welfare of the country granting the subsidy, even though domestic export-producing industries may benefit."

Similarly, in August 1996, CBO wrote, "Export subsidies do not increase the overall level of domestic investment and domestic employment . . . In the long run, export subsidies increase imports as much as exports. As a result, investment and employment in import-competing industries in the United States would decline about as much as they increased in the export industries."

Need further evidence? The Congressional Research Service (CRS) has written "Economic analysis suggests that FSC does increase exports, but likely triggers exchange rate adjustments that also result in an increase in U.S. imports; the long run impact on the trade balance is probably nil. Economic theory also suggests that FSC probably reduces aggregate U.S. economic welfare."

Of course, protests will be heard from supporters of H.R. 4986 that it gets rid of the export requirement. In testimony before the Ways and Means Committee, Deputy Secretary Eizenstat said the Chairman's mark is "not export-contingent." Of course, that claim is absurd. If a company sells products solely in the U.S., they don't qualify for the tax subsidy. That is, by definition, an export subsidy. Therefore, the criticisms of export subsidies previously mentioned would apply to this new legislation as well.

President Nixon originally proposed export subsidies, which became the DISC and then FSC, because he was alarmed at the size of the U.S. trade deficit, which was \$1.4 billion in 1971, a number that seems almost quaint by today's standards. As Paul Magnusson noted in the September 4, 2000, Business Week, FSC "produced some hefty tax savings for big U.S. exporters, but it never did actually do much to narrow the trade deficit, which hit a record \$339 billion last year." And which, I should add, has continued to set new records virtually every month this year.

I can't understand why it makes sense to subsidize U.S. exporters to the tune of \$5 billion or more when the economic impact is "probably nil" or worse.

The economic rationale further deteriorates when one realizes, as the previous quotes suggest, that export subsidies discriminate against mom-and-pop stores who don't have the resources to export and against U.S. industries that must compete with imports. This means that export subsidies distort markets by pre-ordaining winners and losers. The winners? Large exporters and foreign consumers who get to enjoy lower priced U.S. products subsidized by U.S. taxpayers. The losers? Small businesses, U.S. taxpayers, and import-competing industries.

I find it interesting while Treasury has spent a great deal of time figuring out how to combat corporate tax shelters that have no economic rationale, as discussed in a July 1999 report, that they would push this corporate welfare, which also has no economic rationale.

So, who specifically benefits? The journal Tax Notes conducted a revealing study of FSCs in its August 14, 2000, edition. The article profiled the 250 companies that reported \$1.2 billion in FSC tax savings in 1998. The top 20 percent of the companies in the sample claimed 87 percent of the benefits. The two largest FSC beneficiaries were the General Electric Company and Boeing, which saw their tax bills reduced by \$750 million and \$686 million, respectively from 1991-1998.

What are some of the other top FSC corporate welfare queens? Motorola, Caterpillar, Allied-Signal, Cisco Systems, Monsanto, Archer Daniels Midland, Oracle, Raytheon, RJR Nabisco, International Paper, and ConAgra. The list reads like a who's who of extraordinarily profitable multinational corporations. Hardly companies that should need to feed from the taxpayer trough.

Furthermore, American subsidiaries of European firms take advantage of U.S. taxpayers through export subsidies. British Petroleum, Unilever, BASF, Daimler Benz, Hoescht, and Rhone-Poulenc are all FSC beneficiaries. The fact that foreign companies can also claim export benefits pokes a large hole in the argument that these tax benefits are needed to ensure the competitiveness of U.S. businesses.

Similarly, isn't it a bit odd that economists and U.S. policymakers like to lecture Euro-

pean nations about their high tax burdens, but now, suddenly their tax burden is too low and, therefore, U.S. companies need subsidies in order to compete?

Let's be clear, this legislation is not about the competitiveness of large, wealthy, multinational corporations based in the United States. It is about wealthy campaign contributors wanting to keep and expand their \$5 billion-plus tax subsidies and elected officials willing to do their bidding.

Not only does H.R. 4986 allow these companies to continue receiving billions in tax breaks, but it actually expands them. This legislation will cost U.S. taxpayers another \$300 million a year or more.

It is also unfortunate that this legislation subsidizes a number of industries—such as defense contractors, tobacco companies, and pharmaceutical firms—that have no business receiving any more taxpayer hand-outs.

Take the defense industry, for example. Under the current FSC regime, defense contractors can only claim 50 percent of the tax benefit available to other industries. The legislation before us today allows the defense industry to claim the full benefit available to others.

Leaving aside the fact that U.S. taxpayers are already overly generous to defense contractors, which no doubt they are, expanding this corporate welfare will have no discernable impact on overseas sales. The Treasury Department noted in August 1999, "We have seen no evidence that granting full FSC benefits would significantly affect the level of defense exports."

In 1997, the CBO made a similar point, "U.S. defense industries have significant advantages over their foreign competitors and thus should not need additional subsidies to attract sales."

Even the Pentagon has acknowledged this fact by concluding in 1994, "In a large number of cases, the U.S. is clearly the preferred provider, and there is little meaningful competition with suppliers from other countries. An increase in the level of support the U.S. government currently supplies is unlikely to shift the U.S. export market share outside a range of 53 to 59 percent of worldwide arms trade."

As Ways and Means Committee Member, Representative DOGGETT, noted in his dissenting views on H.R. 4986, "In 1999, without the bonanza provided by this bill, U.S. defense contractors sold almost \$11.8 billion in weapons overseas—more than a third of the world's total and more than all European countries combined."

The U.S. should stop the proliferation of weapons and war, not expand it as this bill intends.

The pharmaceutical industry is another industry that does not need or deserve additional subsidies from U.S. taxpayers. The industry already receives substantial research and development tax credits as well as the benefits flowing from discoveries by government scientists. As Representative STARK noted in his dissenting views, drug companies lowered their effective tax rate by nearly 40 percent relative to other industries from 1990 to 1996 and were named the most profitable industry in 1999 by Fortune Magazine.

The industry sells prescription drugs at far cheaper prices abroad than here in the U.S. For example, seniors in the U.S. pay twice as much for prescriptions as those in Canada or

Mexico. It is an affront to U.S. taxpayers to force them to further subsidize an industry that is already gouging them at the pharmacy as this bill would do.

In direct contradiction of various federal policies to combat tobacco related disease and death in the U.S., this legislation would force U.S. taxpayers to subsidize the spread of big tobacco's coffin nails to foreign countries. This violates the American taxpayers' sense of decency and respect. Their money should not be used to push a product onto foreign countries that kills one-third of the people who use it as intended.

By placing H.R. 4986 on the suspension calendar, debate is prematurely cut off and amendments to reduce support for drug companies, the defense industry or tobacco companies can not be considered. But, I guess that is just par for the course for a process that has taken place in relative secrecy between a few Members of Congress, the Administration, and the industries that stand to benefit from this legislation.

You may not hear this in the debate much, but it is important to point out that the EU has already put the U.S. on notice that H.R. 4986 does not satisfy its demands. According to the EU, H.R. 4986 still provides an export subsidy, maintains a requirement that a portion of a product contain U.S.-made components, and does not repeal FSCs by the October 1st deadline. Therefore, it is likely the EU will ask the WTO to rule on the legality of the U.S. reforms. Most independent analysts agree with the EU critique of H.R. 4986.

So, it is reasonable to assume the WTO will again rule against the U.S. and allow the EU to impose retaliatory sanctions against U.S. products. According to some press accounts, the EU would be able to impose 100 percent tariffs on around \$4 billion worth of U.S. goods. These would be the largest sanctions ever imposed in a trade dispute. In other words, this inadequate reform of export subsidies will open up the U.S. to retaliatory action by the EU, which will harm exports as much or more than any perceived benefit that would be provided by H.R. 4986. Of course, the exporters that will be hurt by retaliatory sanctions probably won't be the same businesses that will enjoy the tax windfall provided by this legislation.

Mr. Speaker, ADM is not suffering. Cisco Systems is not suffering. Raytheon is not suffering. Microsoft is not struggling mightily to keep its head above water. But, the American people are. Schools are crumbling, 45 million Americans have no health insurance, individuals are working longer hours for less money with the predictable stress on families, million of seniors do not have access to affordable prescription drugs, and poverty remains stubbornly high, particularly among children.

Rather than debating how to preserve billions in tax subsidies for some of our largest corporations, we should be figuring out how to address some of these issues. How many times over are we going to spend projected, and I stress projected, surpluses. If we want to pay down the national debt, provide prescription drugs, shore up Social Security and Medicare, and increase funding for education, Congress cannot keep showering wealthy corporations with unjustifiable tax subsidies.

I will end with a quote from a newspaper I'm not normally inclined to agree with editorially, the Washington Times. In an editorial on Sep-

tember 5, 2000, the Washington Times wrote, "The Ways and Means Committee boasts that support for its revised FSC bill was bipartisan and near unanimous. It remains a bipartisan and near unanimous blunder."

I urge my colleagues to vote against H.R. 4986.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I rise today in opposition to this.

Mr. Speaker, basically, I want to point out in response to some of the comments made by our colleagues on the other side, this attempt to replace current legislation for the Foreign Sales Corporation tax provision really in some instances doubles the benefit that existing companies are now getting, in particular those of the arms manufacturers and exporters.

At the very least, we would hope we would have an opportunity to go through committee and deal with this on a matter where we could have some amendments and if not eliminate this Foreign Sales Corporation tax provision, at least put amendments in there that would bring it back to what is now, as there is no basis in fact or any argument for why we are doubling in some instances the benefit the corporations would get.

In fact, passage of their particular replacement legislation is going to result in a rejection by the WTO. Everybody knows that in advance. We are going to be in a position where the United States companies are going to be penalized, and it is not going to be the companies necessarily that would be the ones benefitting from this proposed replacement legislation. There is going to be other small businesses, people that depend on financing their business operations and paying their help and their workers, who are going to be penalized when the WTO allows retribution for this.

We are going to be exposed to penalties that we ought not to be exposed to. This situation is not even a close call. Mr. Speaker, no one questions whether this is even good tax policy. The General Accounting Office, the Congressional Budget Office, the Congressional Research Service have all argued the foreign sales corporations have a negligible effect on trade.

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In fact, the Congressional Research Service argues that one of the greatest beneficiaries of this tax preference is foreign consumers who will pay a lower price for products subsidized at our taxpayers' expense. As there exists no evidence that the foreign sales corporations actually improve United States trade or create jobs, this hardly seems to be a judicious use of some \$5 billion.

Given that this bill was written almost completely behind closed doors, one would hope that it would at least be given a full public debate. Instead, proponents cynically assume that the public will not understand the matter

of tax policy; indeed, they count on the public not understanding it, and they permit a measly 40 minutes of debate time.

Instead of actually debating the issue and letting the chips fall where they may, Mr. Speaker, they rush to submit something, anything to the WTO as soon as possible, even something they will most certainly reject, and have expedited the legislative process to a point of incoherence. We should vote against this legislation.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just commend our colleagues on the other side of the aisle who have joined in a collegial and bipartisan way in support of advancing a piece of legislation that is of profound significance and importance to the welfare of our economy and the advancement of our continuing role as the biggest export country on the face of this Earth.

We have an opportunity here to continue to move down that positive path. We have always had that good bipartisan support for these kinds of initiatives in the post-World War II era.

I thank Members on both sides, and I urge my colleagues to get behind this bill and vote aye.

Mr. PAUL. Mr. Speaker, today we are faced with a decision to do the right thing for the wrong reasons or the wrong thing for the wrong reasons. We have heard proponents of this FSC bill argue for tax breaks for U.S. exporters, which, of course, should be done. Those proponents, however, argue that this must be done to move the United States into compliance with a decision by the WTO tribunal. Alternatively, opponents of the bill, argue that allowing firms domiciled in the United States to keep their own earnings results in some form of subsidy to the "evil" corporations. If we were to evaluate this legislation based upon the floor debated, we would be left with the choice of abandoning U.S. sovereignty in the name of WTO compliance or denying private entities freedom from excess taxation.

Setting aside the aforementioned false choice of globalism or oppression by taxation, there are three reasons to consider voting against this bill. First, it perpetuates an international trade war. Second, this bill is brought to the floor as a consequence of a WTO ruling against the United States. Number three, this bill gives more authority to the President to issue Executive Orders.

Although this legislation deals with taxes and technically actually lowers taxes, the reason the bill has been brought up has little to do with taxes per se. To the best of my knowledge there has been no American citizen making any request that this legislation be brought to the floor. It was requested by the President to keep us in good standing with the WTO.

We are now witnessing trade war protectionism being administered by the World (Government) Trade Organization—the WTO. For two years now we have been involved in an ongoing trade war with Europe and this is just one more step in that fight. With this legislation the U.S. Congress capitulates to the demands of the WTO. The actual reason for this

legislation is to answer back to the retaliation of the Europeans for having had a ruling against them in favor of the United States on meat and banana products. The WTO obviously spends more time managing trade wars than it does promoting free trade. This type of legislation demonstrates clearly the WTO is in charge of our trade policy.

The Wall Street Journal reported on 9/5/00, "After a breakdown of talks last week, a multi-billion-dollar trade war is now about certain to erupt between the European Union and the U.S. over export tax breaks for U.S. companies, and the first shot will likely be fired just weeks before the U.S. election."

Already, the European Trade Commissioner, Pascal Lamy, has rejected what we're attempting to do here today. What is expected is that the Europeans will quickly file a new suit with the WTO as soon as this legislation is passed. They will seek to retaliate against United States companies and they have already started to draw up a list of those products on which they plan to place punitive tariffs.

The Europeans are expected to file suit against the United States in the WTO within 30 days of this legislation going into effect.

This legislation will perpetuate the trade war and certainly support the policies that have created the chaos of the international trade negotiations as was witnessed in Seattle, Washington.

The trade war started two years ago when the United States obtained a favorable WTO ruling and complained that the Europeans refused to import American beef and bananas from American owned companies.

The WTO then, in its administration of the trade war, permitted the United States to put on punitive tariffs on over \$300 million worth of products coming into the United States from Europe. This only generated more European anger who then objected by filing against the United States claiming the Foreign Sales Corporation tax benefit of four billion dollars to our corporations was "a subsidy."

On this issue the WTO ruled against the United States both initially and on appeal. We had been given till November 1st to accommodate our laws to the demands of the WTO.

H.R. 4986 will only anger the European Union and accelerate the trade war. Most likely within two months, the WTO will give permission for the Europeans to place punitive tariffs on hundreds of millions of dollars of U.S. exports. These trade problems will only worsen if the world slips into a recession when protectionist sentiments are strongest. Also, since currency fluctuations by their very nature stimulate trade wars, this problem will continue with the very significant weakness of the EURO.

The United States is now rotating the goods that are to receive the 100 to 200 percent tariff in order to spread the pain throughout the various corporations in Europe in an effort to get them to put pressure on their governments to capitulate to allow American beef and bananas to enter their markets. So far the products that we have placed high tariffs on have not caused Europeans to cave in. The threat of putting high tariffs on cashmere wool is something that the British now are certainly unhappy with.

The Europeans are already well on their way to getting their own list ready to "scare" the American exporters once they get their permission in November.

In addition to the danger of a recession and a continual problem with currency fluctuation, there are also other problems that will surely aggravate this growing trade war. The Europeans have already complained and have threatened to file suit in the WTO against the Americans for selling software products over the Internet. Europeans tax their Internet sales and are able to get their products much cheaper when bought from the United States thus penalizing European countries. Since the goal is to manage things in a so-called equitable manner the WTO very likely could rule against the United States and force a tax on our international Internet sales.

Congress has also been anxious to block the Voice Stream Communications planned purchase by Deutsche Telekom, a German government-owned phone monopoly. We have not yet heard the last of this international trade fight.

The British also have refused to allow any additional American flights into London. In the old days the British decided these problems, under the WTO the United States will surely file suit and try to get a favorable ruling in this area thus ratcheting up the trade war.

Americans are especially unhappy with the French who have refused to eliminate their farm subsidies—like we don't have any in this country.

The one group of Americans that seem to get little attention are those importers whose businesses depend on imports and thus get hit by huge tariffs. When 100 to 200 percent tariffs are placed on an imported product, this virtually puts these corporations out of business.

The one thing for certain is this process is not free trade; this is international managed trade by an international governmental body. The odds of coming up with fair trade or free trade under WTO are zero. Unfortunately, even in the language most commonly used in the Congress in promoting "free trade" it usually involves not only international government managed trade but subsidies as well, such as those obtained through the Import/Export Bank and the Overseas Private Investment Corporation and various other methods such as the Foreign Aid and our military budget.

Lastly, despite a Constitution which vests in the House authority for regulating foreign commerce (and raising revenue, i.e. taxation), this bill unconstitutionally delegates to the President the "authority" to, by Executive order, suspend the tax break by designating certain property "in short supply." Any property so designated shall not be treated as qualifying foreign trade property during the period beginning with the date specified in the Executive order.

Free trade should be our goal. We should trade with as many nations as possible. We should keep our tariffs as low as possible since tariffs are taxes and it is true that the people we trade with we are less likely to fight with. There are many good sound, economic and moral reasons why we should be engaged in free trade. But managed trade by the WTO does not qualify for that definition.

Mr. STARK. Mr. Speaker, I rise today in adamant opposition to H.R. 4986, the Foreign Sales Corporation replacement bill. This bill is a blatant form of corporate welfare, ruled illegal under international trade laws by the World Trade Organization (WTO). The U.S. has already missed two deadlines imposed by the

WTO and the European Union for repealing the FSC. I don't know which is worse—that the current leadership is so incapable of governing that they can't meet an extended deadline, or that they have failed to comply with the WTO ruling by attempting to replace one export subsidy with something remarkably similar.

Then the Senate Finance Committee made some minor changes to the bill that appears to bring the U.S. closer to WTO compliance than the House version without sacrificing the current tax benefit received by Caterpillar Inc. This version came back to the House and was voted on in H.R. 2614, the \$240 billion GOP tax package. The House leadership thought they were doing their corporate constituents a favor by attaching the FSC to a bloated tax package. Now we're here once again because the majority leadership thought they could bait Clinton into signing a bad tax bill if they attached the FSC to it. No such luck! Clinton has threatened to veto the tax bill and the Senate has no intentions of acting on it.

The bill before us today is nothing more than corporate welfare for some of the nation's most profitable industries. The European Union has filed a complaint with the World Trade Organization (WTO) that the FSC is an export tax subsidy and therefore illegal under international trade laws. I completely agree. Yet instead of repealing the tax subsidy and complying with our international trade obligations, this bill seeks to remedy the FSC with a near exact replacement.

The Institute on Taxation and Economic Policy recently released a report that shows a rise in pretax corporate profits by a total of 23.5 percent from 1996 through 1998. At the same time, U.S. Treasury corporate income tax revenues only rose by a mere 7.7 percent. In addition to the myriad of corporate tax deductions this Congress insists on expanding, programs such as the FSC can help explain the disparity in corporate profits and corporate income tax rates.

The FSC helps subsidize some of the most profitable industries such as the pharmaceutical, tobacco and weapons export industries. Why should Congress help out the pharmaceutical industry if the industry insists on charging U.S. consumers more for prescription drugs than they charge in Europe? We shouldn't! The pharmaceutical industry sells prescription drugs in the U.S. at prices that are 190–400 percent higher than what they charge in Europe. The U.S. subsidizes the pharmaceutical industry by approximately \$123 million per year through the FSC. This is unfair to the American taxpayer and must not be allowed to happen.

The top 20 percent of FSC beneficiaries obtained 87 percent of the FSC benefit in 1998. The two largest FSC beneficiaries, General Electric and Boeing, received almost \$750 million and \$686 million in FSC benefits over 8 years, respectively. RJ Reynolds' FSC benefit represents nearly six percent of its net income while Boeing's FSC benefit represents twelve percent of its earnings!

It is high time we stop allowing corporate interests to dictate U.S. spending. We didn't pass a prescription drug benefit for seniors in the 106th Congress so we shouldn't be rushing through a piece of legislation that gives corporations a \$5 billion per year tax break. I urge my colleagues to put working families, children and our seniors first, and oppose H.R. 4986.

Ms. KILPATRICK. Mr. Speaker, I rise today in opposition to the passage of H.R. 4986, the Senate Amendments to the Foreign Sales Corporation (FSC) Repeal and Extraterritorial Income Exclusion Act. While it is important that our nation's businesses have the benefit of a level playing field when competing against foreign businesses, we should not do so on the back of the American Public or to the detriment of the health and welfare of those outside of our borders. Let it not be said that we are a nation willing to sacrifice all principles for the welfare of our nation's businesses.

The measure before us, effective for transactions entered after September 30, 2000, will allow both individuals and companies an exemption from federal taxes of all income earned abroad (whether or not the product is manufactured in the United States or abroad). The measure does require that 50% of the components of the final product be manufactured in the United States. The measure also eliminates current law allowing for the creation of Foreign Sales Corporations. Although I supported the measure when it was originally considered in the House facts have come to light that have given me pause to support the measure.

I believe that there are questions concerning the process used to move this measure. The FSC is a complicated matter that warrants the full and deliberate consideration of the entire House. Considering this measure under suspension of the rules clearly inhibits this body's ability to make the most informed decision about this important matter which will affect the people we represent.

Policy questions concerning this matter also abound. For example, during consideration of the bill an amendment was pursued that would have exempted tobacco companies from the tax exemption provided under the measure. It is argued that this measure will give tobacco companies an estimated \$100 million in taxpayer subsidies to export cigarettes. It is further argued that this subsidy provides incentives to tobacco companies to maximize and promote sales in other countries. It gives me pause to think that the policy Congress endorses in this measure will give the impression that while we care about the health risks imposed by tobacco use on American lives, we are not concerned about the health risks imposed by tobacco use on foreign lives.

Questions have also been raised on the effect this measure will have on the U.S. economy. Proponents of the measure argue that the bill will spur domestic investment and employment through an increase in exports, while opponents point to studies that indicate that "export subsidies, such as FSC's, reduce global economic welfare and typically even reduce the welfare of the country granting the subsidy . . . [C]ompanies in import-competing industries reduce domestic investment and employment." I am hesitant to support a measure that may in fact be detrimental to the well being of our nation's economy.

Mr. Speaker, for these reasons I rise in opposition to H.R. 4986, and I recommend a nay vote on its passage.

Mr. CRANE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4986.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. STARK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROHIBITION OF GAMING ON CERTAIN INDIAN LANDS IN CALIFORNIA

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5477) to provide that gaming shall not be allowed on certain Indian trust lands in California that were purchased with certain Federal grant funds, as amended.

The Clerk read as follows:

H.R. 5477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTRICTION ON RELINQUISHMENT OF LEASE.

Prior to January 1, 2003, the Secretary of the Interior shall not approve the relinquishment of any lease entered into for the establishment of a health care facility for the members of seven Indian Tribes or Bands in San Diego County, California, unless the Secretary has determined that the relinquishment of such lease has been approved, by tribal resolution, by each of the seven Indian Tribes or Bands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, authored by the gentleman from California (Mr. HUNTER), will establish a moratorium on the approval by the Secretary of Interior of the relinquishment of a release of a health clinic until that relinquishment has been approved by tribal resolution by each of the seven tribes which would comprise the Southern Indian Health Council in Alpine, California.

The clinic was acquired and constructed with Indian Community Development Block Grant funds and was constructed by the Southern Indian Health Council.

I ask for Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5477, as amended, is legislation which addresses the concerns of seven Indian tribes in Southern California to provide that lands

purchased in part with Community Development Block Grant funding are used for health care facilities unless alternatives are approved by all of the tribes.

There have been a number of complicated issues with regard to the original version of this legislation; and through the work of the gentleman from California (Mr. HUNTER) and the gentleman from California (Mr. FILNER), those issues have been addressed.

We appreciate the work of our colleagues on this legislation and support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Maryland (Mr. GILCHREST) for yielding me this time and taking the leadership, along with the Democrat side of the aisle. I note that this is bipartisan legislation supported by the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. CUNNINGHAM) and the gentleman from California (Mr. BILBRAY) in the San Diego delegation.

Mr. Speaker, this is a fairly straightforward bill. This involves some 8-plus acres of land in the community in Alpine, California, in my congressional district in San Diego County. It is land that was purchased with Community Development Block Grant funds.

This land was purchased with these funds for the purpose of constructing a health clinic for the seven tribes that presently live or are located in that particular vicinity; and, indeed, the clinic today supports some 10,000 visits per year. Not only are tribal members admitted to the clinic but also non-tribal members, so it is a valuable asset.

Part of the land was put in the name of one of the tribes, the Cuyapaipe tribe, which is a wonderful tribe, some 17 members whose traditional homelands are about 50 miles away. They propose at this time, Mr. Speaker, to build a casino on this health clinic land that was purchased with CDBGs.

We think, Mr. Speaker, having looked at this, that this is a fairly substantial departure from the tradition of allowing the autonomy and all of the activities that take place once the reservation status is attached to a piece of land to allow that to be expanded to change a health clinic, which has been purchased with Federal taxpayer dollars and which resides on land that was purchased with Federal taxpayer dollars, to allow that to be converted into a totally different use; that is, one of a casino.

So this bill puts a 2-year moratorium on this transfer for this purpose. We hope that that is going to allow the tribes to try to work out some type of an adjustment, maybe some type of an arrangement. We think it is appropriate to pass it at this time to keep

this project from going forward. Again, this is supported by all the Members of the San Diego delegation. It is a bipartisan bill, and the gentleman from California (Mr. FILNER) is a cosponsor of this resolution.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to support H.R. 5477, introduced by my colleague from California. Members should be aware that this legislation sets no new standards on Indian gambling. It addresses one specific problem with one specific parcel of land in San Diego County, California.

I would hope that the matter before the House would be free from controversy. This legislation is supported by the entire San Diego delegation, with Mr. HUNTER, Mr. FILNER and myself as sponsors.

This legislation prevents the Cuyapaipe Indian tribe from using land and buildings not connected to the tribe's traditional homeland and purchased with HUD Community Development Block Grants (CDBGs) for the establishment of a massive Indian gaming casino.

The Cuyapaipe Community of Diegueno Mission Indians recently announced a proposal to relocate an outpatient health care clinic operated by the Southern Indian Health Council (SIHC) in Alpine, California. The stated purpose of the relocation is to permit the Cuyapaipe to construct a gaming casino on the clinic property, which the Cuyapaipe claim as their reservation. The Southern Indian Health Council was organized in 1982 by seven Indian tribes in southern San Diego County to provide medical care to their members. The Council's clinic provides vital health care services to Indian and non-Indian patients in a rural area of San Diego County, serving over 10,000 patients per year, many of whom are from low income families.

The Bureau of Indian Affairs (BIA) has recently rejected the Cuyapaipe tribe's application to build the casino, finding the paperwork incomplete. This provides a temporary stay of construction, leaving the door open to the future conversion of the Cuyapaipe's health care center into a casino. The legislation before us today prevents the tribe from using the clinic property to build a casino.

Nothing in this legislation will prevent the Cuyapaipe from establishing gaming facilities on their traditional homeland. This bill does not affect the ability of the Cuyapaipe to build a casino on their own reservation. In fact, as amended, the bill goes to great pains to avoid stepping on the sensitive question of Indian gaming. It does not amend the Indian Gaming Regulatory Act, and the amended version before us does not even deal with the question of the rights of tribes to conduct gaming operations, or the relationship between tribal and state governments.

Instead, the bill seeks to resolve a dispute among several tribes, by requiring that they achieve consensus before changing the use of land taken into trust for all of them. As one additional protection, the bill sunsets in January of 2003, so the prohibition is actually a two-year moratorium.

Mr. EVERETT. Mr. Speaker, I support my distinguished colleague's bill H.R. 5477, which would delay casino approval on Indian Trust Lands in California. I understand the distinguished gentleman's concern with Indian gaming and its effect on surrounding communities, especially when those effected communities are not in favor of such gambling operations.

I have similar concerns and for that reason I, along with Congressman BOB RILEY, introduced legislation (H.R. 5494) to block any construction of a gambling operation on Indian burial lands in Wetumpka, Alabama, which is located in my district.

When the Creek Indians took possession of the burial lands in 1980, they did so with federal funds as part of an agreement with the federal government that the site would not be developed. In direct violation of the agreement, the Poarch Band of the Creek Indians now want to build a full-fledged casino on the property. H.R. 5494 would both block the establishment of a casino on the tribal grounds as well as order the Alabama Attorney General to pursue legal action in federal court against the Creeks if they go forward with the construction project.

In closing, let me say I understand why communities are concerned about such activities going on in their backyard. Moral objections to casino gambling notwithstanding, such gaming activities place untold burdens on local police, fire, rescue, and other public services, not to mention the stress on local utilities and infrastructure.

Mr. UDALL of Colorado. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and pass the bill, H.R. 5477, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

"A bill to establish a moratorium on approval by the Secretary of the Interior of relinquishment of a lease of certain tribal lands in California."

A motion to reconsider was laid on the table.

FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4986.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4986, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 316, nays 72, answered "present" 1, not voting 43, as follows:

Abercrombie
Aderholt
Allen
Archer
Armey
Baca
Bachus
Baird
Baker
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Billirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Capps
Cardin
Castle
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ewing
Fletcher
Foley
Ford
Fossella

[Roll No. 597]

YEAS—316

Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Hooley
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson-Lee
(TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kelly
Kildee
Kind (WI)
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)

Meeks (NY)
Metcalfe
Mica
Miller (FL)
Miller, Gary
Minge
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Owens
Oxley
Packard
Pastor
Pease
Pelosi
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomerooy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Reyes
Reynolds
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Scarborough
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stump
Sununu
Sweeney
Tancred
Tanner
Tauscher
Tauzin
Terry

Thomas	Upton	Wexler
Thompson (CA)	Vitter	Whitfield
Thompson (MS)	Walden	Wicker
Thornberry	Walsh	Wilson
Thune	Wamp	Wolf
Tiahrt	Watkins	Wu
Toomey	Watts (OK)	Wynn
Towns	Weldon (FL)	Young (AK)
Trafigant	Weldon (PA)	Young (FL)
Turner	Weller	

NAYS—72

Andrews	Jackson (IL)	Rivers
Baldacci	Jones (OH)	Rothman
Baldwin	Kilpatrick	Roybal-Allard
Bonior	Kucinich	Rush
Brady (PA)	LaFalce	Sanders
Brown (OH)	Lee	Saxton
Capuano	Lewis (GA)	Schakowsky
Carson	Lipinski	Serrano
Chabot	LoBiondo	Shows
Chenoweth-Hage	Luther	Slaughter
Condit	Maloney (CT)	Stark
Conyers	Markey	Strickland
Cook	McGovern	Stupak
Costello	McKinney	Taylor (MS)
Davis (IL)	Menendez	Thurman
DeFazio	Miller, George	Tierney
DeGette	Nadler	Udall (CO)
Dingell	Oberstar	Udall (NM)
Doggett	Obey	Velazquez
Evans	Olver	Visclosky
Gutierrez	Pallone	Waters
Hinchey	Payne	Watt (NC)
Holt	Peterson (MN)	Waxman
Hostettler	Rahall	Woolsey

ANSWERED "PRESENT"—1

Paul

NOT VOTING—43

Ackerman	Gejdenson	Meehan
Ballenger	Goodlatte	Millender-
Becerra	Hefley	McDonald
Brown (FL)	Holden	Moakley
Burr	Hulshof	Pascarell
Canady	Jefferson	Peterson (PA)
Coburn	Kaptur	Porter
Coyne	Kasich	Riley
Danner	Kennedy	Stenholm
Dickey	Kleczka	Talent
Farr	Klink	Taylor (NC)
Fattah	Largent	Weiner
Filner	Maloney (NY)	Weygand
Forbes	McCarthy (NY)	Wise
Ganske	McIntosh	

□ 1122

Messrs. SAXTON, COSTELLO, COOK and RUSH, Ms. VELAZQUEZ, Mr. VIS-CLOSKY, Mr. BRADY of Pennsylvania and Ms. SLAUGHTER changed their vote from "yea" to "nay."

Messrs. HALL of Ohio, FORD, CUMMINGS and ENGEL changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 597, H.R. 4986, the Foreign Sales Corporation (FCS) Repeal and Extraterritorial Income Extension Act. Had I been present I would have voted "yea."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 597, I was in my Congressional District on official business. Had I been present, I would have voted "nay."

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 442) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 442

Resolved by the House of Representatives (the Senate concurring). That when the House adjourns on the legislative day of Tuesday, November 14, 2000, or Wednesday, November 15, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, December 4, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Tuesday, November 14, 2000, or Wednesday, November 15, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, December 5, 2000, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 25 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1735

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEASE) at 5 o'clock and 35 minutes p.m.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2001

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the bill (H.R. 5633) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2001, and for

other purposes, to the end that the bill be hereby passed; and that a motion to reconsider be hereby laid on the table.

The Clerk read the title of the bill.

The text of H.R. 5633 is as follows:

H.R. 5633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 2001, and for other purposes, namely:

FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia for a nationwide program to be administered by the Mayor for District of Columbia resident tuition support, \$17,000,000, to remain available until expended: *Provided*, That such funds may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, usable at both public and private institutions for higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit and such other factors as may be authorized.

FEDERAL PAYMENT FOR INCENTIVES FOR ADOPTION OF CHILDREN

The paragraph under the heading "Federal Payment for Incentives for Adoption of Children" in Public Law 106-113, approved November 29, 1999 (113 Stat. 1501), is amended to read as follows: "For a Federal payment to the District of Columbia to create incentives to promote the adoption of children in the District of Columbia foster care system, \$5,000,000: *Provided*, That such funds shall remain available until September 30, 2002, and shall be used to carry out all of the provisions of title 38, except for section 3808, of the Fiscal Year 2001 Budget Support Act of 2000, D.C. Bill 13-679, enrolled June 12, 2000."

FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Chief Financial Officer of the District of Columbia, \$1,250,000, of which \$250,000 shall be for payment to a mentoring program and for hotline services; \$250,000 shall be for payment to a youth development program with a character building curriculum; \$250,000 shall be for payment to a basic values training program; and \$500,000, to remain available until expended, shall be for the design, construction, and maintenance of a trash rack system to be installed at the Hickey Run stormwater outfall.

FEDERAL PAYMENT FOR COMMERCIAL REVITALIZATION PROGRAM

For a Federal payment to the District of Columbia, \$1,500,000, to remain available until expended, for the Mayor, in consultation with the Council of the District of Columbia, to provide offsets against local taxes for a commercial revitalization program, such program to provide financial inducements, including loans, grants, offsets to local taxes and other instruments that promote commercial revitalization in Enterprise Zones and low and moderate income areas in the District of Columbia: *Provided*, That in carrying out such a program, the Mayor shall use Federal commercial revitalization proposals introduced in Congress as a guideline: *Provided further*, That not later than 180 days after the date of the enactment of this Act, the Mayor shall report to the

Committees on Appropriations of the Senate and House of Representatives on the progress made in carrying out the commercial revitalization program.

FEDERAL PAYMENT TO THE DISTRICT OF
COLUMBIA PUBLIC SCHOOLS

For a Federal payment to the District of Columbia Public Schools, \$500,000: *Provided*, That \$250,000 of said amount shall be used for a program to reduce school violence: *Provided further*, That \$250,000 of said amount shall be used for a program to enhance the reading skills of District public school students.

FEDERAL PAYMENT TO THE METROPOLITAN
POLICE DEPARTMENT

For a Federal payment to the Metropolitan Police Department, \$100,000: *Provided*, That said funds shall be used to fund a youth safe haven police mini-station for mentoring high risk youth.

FEDERAL CONTRIBUTION TO COVENANT HOUSE
WASHINGTON

For a Federal contribution to Covenant House Washington for a contribution to the construction in Southeast Washington of a new community service center for homeless, runaway and at-risk youth, \$500,000.

FEDERAL PAYMENT TO THE DISTRICT OF
COLUMBIA CORRECTIONS TRUSTEE OPERATIONS

For salaries and expenses of the District of Columbia Corrections Trustee, \$134,200,000 for the administration and operation of correctional facilities and for the administrative operating costs of the Office of the Corrections Trustee, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712) of which \$1,000,000 is to fund an initiative to improve case processing in the District of Columbia criminal justice system: *Provided*, That notwithstanding any other provision of law, funds appropriated in this Act for the District of Columbia Corrections Trustee shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That in addition to the funds provided under this heading, the District of Columbia Corrections Trustee may use any remaining interest earned on the Federal payment made to the Trustee under the District of Columbia Appropriations Act, 1998, to carry out the activities funded under this heading.

FEDERAL PAYMENT TO THE DISTRICT OF
COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, \$105,000,000 to be allocated as follows: for the District of Columbia Court of Appeals, \$7,409,000; for the District of Columbia Superior Court, \$71,121,000; for the District of Columbia Court System, \$17,890,000; \$5,255,000 to finance a pay adjustment of 8.48 percent for nonjudicial employees; and \$3,325,000, including \$825,000 for roofing repairs to the facility commonly referred to as the Old Courthouse and located at 451 Indiana Avenue, Northwest, to remain available until September 30, 2002, for capital improvements for District of Columbia courthouse facilities: *Provided*, That none of the funds in this Act or in any other Act shall be available for the purchase, installation or operation of an Integrated Justice Information System until a detailed plan and design has been submitted by the courts and approved by the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and

Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA
COURTS

For payments authorized under section 11-2604 and section 11-2605, D.C. Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code, and payments for counsel authorized under section 21-2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), \$34,387,000, to remain available until expended: *Provided*, That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the \$3,325,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further*, That, in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the \$3,325,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further*, That such funds shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives: *Provided further*, That the District of Columbia Courts shall implement the recommendations in the General Accounting Office Report GAO/AIMD/OGC-99-226 regarding payments to court-appointed attorneys and shall report quarterly to the Office of Management and Budget and to the House and Senate Appropriations Committees on the status of these reforms.

FEDERAL PAYMENT TO THE COURT SERVICES
AND OFFENDER SUPERVISION AGENCY FOR
THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, as authorized by the National Capital Revitaliza-

tion and Self-Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712), \$112,527,000, of which \$67,521,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to supervision of adults subject to protection orders or provision of services for or related to such persons; \$18,778,000 shall be transferred to the Public Defender Service; and \$26,228,000 shall be available to the Pretrial Services Agency: *Provided*, That of the amount provided under this heading, \$17,854,000 shall be used to improve pretrial defendant and post-conviction offender supervision, enhance drug testing and sanctions-based treatment programs and other treatment services, expand intermediate sanctions and offender re-entry programs, continue planning and design proposals for a residential Sanctions Center and improve administrative infrastructure, including information technology; and \$836,000 of the \$17,854,000 referred to in this proviso is for the Public Defender Service: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That notwithstanding section 446 of the District of Columbia Home Rule Act or any provision of subchapter III of chapter 13 of title 31, United States Code, the use of interest earned on the Federal payment made to the District of Columbia Offender Supervision, Defender, and Court Services Agency under the District of Columbia Appropriations Act, 1998, by the Agency during fiscal years 1998 and 1999 shall not constitute a violation of such Act or such subchapter.

FEDERAL PAYMENT FOR WASHINGTON
INTERFAITH NETWORK

For a Federal payment to the Washington Interfaith Network to reimburse the Network for costs incurred in carrying out preconstruction activities at the former Fort Dupont Dwellings and Additions, \$1,000,000: *Provided*, That such activities may include architectural and engineering studies, property appraisals, environmental assessments, grading and excavation, landscaping, paving, and the installation of curbs, gutters, sidewalks, sewer lines, and other utilities: *Provided further*, That the Secretary of the Treasury shall make such payment only after the Network has received matching funds from private sources (including funds provided through loans) to carry out such activities in an aggregate amount which is equal to the amount of such payment (as certified by the Inspector General of the District of Columbia) and has provided the Secretary of the Treasury with a request for reimbursement which contains documentation certified by the Inspector General of the District of Columbia showing that the Network carried out the activities and that the costs incurred in carrying out the activities were equal to or less than the amount of the reimbursement requested: *Provided further*, That none of the funds provided under this heading may be obligated or expended after December 31, 2001 (without regard to whether the activities involved were carried out prior to such date).

FEDERAL PAYMENT FOR PLAN TO SIMPLIFY
EMPLOYEE COMPENSATION SYSTEMS

For a Federal payment to the Mayor of the District of Columbia for a contract for the study and development of a plan to simplify the compensation systems, schedules, and work rules applicable to employees of the District government, \$250,000: *Provided*, That under the terms of the contract the plan shall include (at a minimum) a review of the

current compensation systems, schedules, and work rules applicable to such employees; a review of the best practices regarding the compensation systems, schedules, and work rules of State and local governments and other appropriate organizations; a proposal for simplifying the systems, schedules, and rules applicable to employees of the District government; and the development of strategies for implementing such proposal, including an identification of any statutory, contractual, or other barriers to implementing the proposal and an estimated time frame for implementing the proposal: *Provided further*, That under the terms of the contract the contractor shall submit the plan to the Mayor and to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That the Mayor shall develop a proposed solicitation for the contract not later than 90 days after the date of the enactment of this Act and shall submit a copy of the proposed solicitation to the Comptroller General for review at least 90 days prior to the issuance of such solicitation: *Provided further*, That not later than 45 days after receiving the proposed solicitation from the Mayor, the Comptroller General shall review the solicitation to ensure that it adequately addresses all of the necessary elements described under this heading and report to the Committees on Appropriations of the House of Representatives and Senate on the results of this review: *Provided further*, That for purposes of this contract the term "District government" has the meaning given such term in section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47-393(5), D.C. Code), except that such term shall not include the courts of the District of Columbia and shall include the District of Columbia Financial Responsibility and Management Assistance Authority.

METRO RAIL CONSTRUCTION

For the Washington Metropolitan Area Transit Authority [WMATA], a contribution of \$25,000,000, to remain available until expended, to design and build a Metrorail station located at New York and Florida Avenues, Northeast: *Provided*, That prior to the release of said funds from the U.S. Treasury, the District of Columbia shall set aside an additional \$25,000,000 for this project in its Fiscal Year 2001 Budget and Financial Plan and, further, shall establish a special taxing district for the neighborhood of the proposed Metrorail station to provide \$25,000,000: *Provided further*, That the requirements of 49 U.S.C. 5309(a)(2) shall apply to this project.

FEDERAL PAYMENT FOR BROWNFIELD REMEDIATION

For a Federal payment to the District of Columbia, \$3,450,000 for environmental and infrastructure costs at Poplar Point: *Provided*, That of said amount, \$2,150,000 shall be available for environmental assessment, site remediation and wetlands restoration of the 11 acres of real property under the jurisdiction of the District of Columbia: *Provided further*, That no more than \$1,300,000 shall be used for infrastructure costs for an entrance to Anacostia Park: *Provided further*, That none of said funds shall be used by the District of Columbia to purchase private property in the Poplar Point area.

PRESIDENTIAL INAUGURATION

For a payment to the District of Columbia to reimburse the District for expenses incurred in connection with Presidential inauguration activities, \$5,961,000, as authorized by section 737(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1132), which shall be apportioned by the Chief Financial

Officer within the various appropriation headings in this Act.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center in the District of Columbia, \$500,000 to be used for the network of satellite pediatric health clinics for children and families in underserved neighborhoods and communities in the District of Columbia.

CHILD ADVOCACY CENTER

For a Federal contribution to the Child Advocacy Center for its Safe Shores program, \$500,000.

ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT

For a Federal contribution to St. Coletta of Greater Washington, Inc. for costs associated with the establishment of a day program and comprehensive case management services for mentally retarded and multiple-handicapped adolescents and adults in the District of Columbia, including property acquisition and construction, \$1,000,000.

DISTRICT OF COLUMBIA SPECIAL OLYMPICS

For a Federal contribution to the District of Columbia Special Olympics, \$250,000.

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act and section 126 of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2001 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or \$5,677,379,000 (of which \$172,607,000 shall be from intra-District funds and \$3,250,783,000 shall be from local funds): *Provided further*, That the Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2001, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (109 Stat. 97; Public Law 104-8), \$3,140,000: *Provided*, That these funds be derived from accounts held by the Authority on behalf of the District of Columbia: *Provided further*, That none of the funds contained in this Act may be used to pay any compensation of the Executive Director or General Counsel of the Authority at a rate in excess of the maximum rate of compensation which may be paid to such individual during fiscal year 2001 under section 102 of such Act, as determined by the Comptroller General (as described in GAO letter report B-279095.2): *Provided further*, That none of the funds contained in this Act or any other

funds available to the Authority or any other entity of the District of Columbia government from any source (including any accounts of the Authority) may be used for any payments (including but not limited to severance or bonus payments, and payments under agreements in effect before the enactment of this Act) to any individual upon or following the individual's separation from employment with the Authority (other than a payment of the individual's regular salary for services performed prior to separation or a payment for unused annual leave accrued by the individual), except that an individual who is employed by the Authority during the entire period which begins on the date of the enactment of this Act and ends on September 30, 2001, may receive a severance payment after such date in an aggregate amount which does not exceed the product of 200 percent of the individual's average weekly salary during the final 12-month period (or portion thereof) during which the individual was employed by the Authority and the number of full years during which the individual was employed by the Authority.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$195,771,000 (including \$162,172,000 from local funds, \$20,424,000 from Federal funds, and \$13,175,000 from other funds): *Provided*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That all employees permanently assigned to work in the Office of the Mayor shall be paid from funds allocated to the Office of the Mayor: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That \$303,000 and no fewer than 5 FTEs shall be available exclusively to support the Labor-Management Partnership Council: *Provided further*, That, effective September 30, 2000, section 168(a) of the District of Columbia Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1531) is amended by inserting "after '\$5,000,000': *Provided further*, That not later than March 1, 2001, the Chief Financial Officer of the District of Columbia shall submit a study to the Committees on Appropriations of the House of Representatives and Senate on the merits and potential savings of privatizing the operation and administration of Saint Elizabeths Hospital.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$205,638,000 (including \$53,562,000 from local funds, \$92,378,000 from Federal funds, and \$59,698,000 from other funds), of which \$15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be

paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Code, sec. 1-2271 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12-26): *Provided*, That such funds are available for acquiring services provided by the General Services Administration: *Provided further*, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase or lease of 135 passenger carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, and such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government \$762,546,000 (including \$591,565,000 from local funds, \$24,950,000 from Federal funds, and \$146,031,000 from other funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Department of Fire and Emergency Medical Services of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: *Provided further*, That the Metropolitan Police Department is authorized to maintain 3,800 sworn officers, with leave for a 50 officer attrition: *Provided further*, That no more than 15 members of the Metropolitan Police Department shall be detailed or assigned to the Executive Protection Unit, until the Chief of Police submits a recommendation to the Council for its review: *Provided further*, That \$100,000 shall be available for inmates released on medical and geriatric parole: *Provided further*, That commencing on December 31, 2000, the Metropolitan Police Department shall provide to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives, quarterly reports on the status of crime reduction in each of the 83 police service areas es-

tablished throughout the District of Columbia.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$998,918,000 (including \$824,867,000 from local funds, \$147,643,000 from Federal funds, and \$26,408,000 from other funds), to be allocated as follows: \$769,943,000 (including \$629,309,000 from local funds, \$133,490,000 from Federal funds, and \$7,144,000 from other funds), for the public schools of the District of Columbia; \$200,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$1,679,000 from local funds for the State Education Office, \$17,000,000 from local funds, previously appropriated in this Act as a Federal payment, for resident tuition support at public and private institutions of higher learning for eligible District of Columbia residents; and \$105,000,000 from local funds for public charter schools: *Provided*, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of each fiscal year: *Provided further*, That the District of Columbia public charter schools will report enrollment on a quarterly basis upon which a quarterly disbursement will be calculated: *Provided further*, That the quarterly payment of October 15, 2000, shall be fifty (50) percent of each public charter school's annual entitlement based on its unaudited October 5 enrollment count: *Provided further*, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall be available for public education in accordance with the School Reform Act of 1995 (D.C. Code, sec. 31-2853.43(A)(2)(D); Public Law 104-134, as amended): *Provided further*, That \$480,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: *Provided further*, That \$76,433,000 (including \$44,691,000 from local funds, \$13,199,000 from Federal funds, and \$18,543,000 from other funds) shall be available for the University of the District of Columbia: *Provided further*, That \$200,000 is allocated for the East of the River Campus Assessment Study, \$1,000,000 for the Excel Institute Adult Education Program to be used by the Institute for construction and to acquire construction services provided by the General Services Administration on a reimbursable basis, \$500,000 for the Adult Education State Plan, \$650,000 for The Saturday Academy Pre-College Program, and \$481,000 for the Strengthening of Academic Programs; and \$26,459,000 (including \$25,208,000 from local funds, \$550,000 from Federal funds and \$701,000 other funds) for the Public Library: *Provided further*, That the \$1,020,000 enhancement shall be allocated such that \$500,000 is used for facilities improvements for 8 of the 26 library branches, \$235,000 for 13 FTEs for the continuation of the Homework Helpers Program, \$166,000 for 3 FTEs in the expansion of the Reach Out And Roar (ROAR) service to license day care homes, and \$119,000 for 3 FTEs to expand literacy support into branch libraries: *Provided further*, That \$2,204,000 (including \$1,780,000 from local funds, \$404,000 from Federal funds and \$20,000 from other funds) shall be available for the Commission on the Arts and Humanities: *Provided further*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be

available from this appropriation for official purposes: *Provided further*, That none of the funds contained in this Act may be made available to pay the salaries of any District of Columbia Public School teacher, principal, administrator, official, or employee who knowingly provides false enrollment or attendance information under article II, section 5 of the Act entitled "An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes", approved February 4, 1925 (D.C. Code, sec. 31-401 et seq.): *Provided further*, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary and secondary school during fiscal year 2001 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia which are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2001, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That \$2,200,000 is allocated to the Temporary Weighted Student Formula to fund 344 additional slots for pre-K students: *Provided further*, That \$50,000 is allocated to fund a conference on learning support for children ages 3-4 hosted jointly by the District of Columbia Public Schools and District of Columbia public charter schools: *Provided further*, That no local funds in this Act shall be used to administer a system-wide standardized test more than once in FY 2001: *Provided further*, That no less than \$436,452,000 shall be expended on local schools through the Weighted Student Formula: *Provided further*, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: *Provided further*, That the District of Columbia Public Schools shall spend \$250,000 to engage in a Schools Without Violence program based on a model developed by the University of North Carolina, located in Greensboro, North Carolina: *Provided further*, That the District of Columbia Public Schools shall spend \$250,000 to implement a Failure Free Reading program in the District's public schools: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2001, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2002 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2002: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2001, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal

year 2002 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2002.

HUMAN SUPPORT SERVICES (INCLUDING TRANSFER OF FUNDS)

Human support services, \$1,535,654,000 (including \$637,347,000 from local funds, \$881,589,000 from Federal funds, and \$16,718,000 from other funds): *Provided*, That \$25,836,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization, as defined in section 411(5) of the Stewart B. McKinney Homeless Assistance Act (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11371), providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to such Act (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.): *Provided further*, That \$1,250,000 shall be paid to the Doe Fund for the operation of its Ready, Willing, and Able Program in the District of Columbia as follows: \$250,000 to cover debt owed by the District of Columbia government for services rendered shall be paid to the Doe Fund within 15 days of the enactment of this Act; and \$1,000,000 shall be paid in equal monthly installments by the 15th day of each month: *Provided further*, That \$400,000 shall be available for the administrative costs associated with implementation of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000, signed by the Mayor on April 20, 2000 (D.C. Act 13-329): *Provided further*, That \$7,000,000 shall be available for deposit in the Addiction Recovery Fund established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, signed by the Mayor on April 20, 2000 (D.C. Act 13-329): *Provided further*, That the District of Columbia is authorized to enter into a long-term lease of Hamilton Field with Gonzaga College High School and that, in exchange for such a lease, Gonzaga will introduce and implement a youth baseball program focused on 13 to 18 year old residents, said program to include summer and fall baseball programs and baseball clinics: *Provided further*, That notwithstanding any other provision of law, to augment the District of Columbia subsidy for the District of Columbia Health and Hospitals Public Benefit Corporation, the District of Columbia may transfer from other non-Federal funds appropriated under this Act to the Human Support Services appropriation under this Act an amount not to exceed \$90,000,000 for the purpose of restructuring the delivery of health services in the District of Columbia: *Provided further*, That such restructuring shall be pursuant to a restructuring plan approved by the Mayor of the District of Columbia, the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Board of Directors of the Public Benefit Corporation: *Provided further*, That—

(1) the restructuring plan reduces personnel levels of D.C. General Hospital and of the Public Benefit Corporation consistent with the reduction in force set forth in the August 25, 2000, resolution of the Board of Directors of the Public Benefit Corporation regarding personnel structure, by reducing personnel by at least 500 full-time equivalent employees, without replacement by contract personnel;

(2) no transferred funds are expended until 10 calendar days after the restructuring plan has received final approval and a copy evidencing final approval has been submitted by the Mayor to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate; and

(3) the plan includes a certification that the plan does not request and does not rely upon any current or future request for additional appropriation of Federal funds.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, \$278,242,000 (including \$265,078,000 from local funds, \$3,328,000 from Federal funds, and \$9,836,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further*, That \$100,000 shall be available for a commercial sector recycling initiative, \$250,000 to initiate a recycling education campaign, \$10,000 for community clean-up kits, \$190,000 to restore a 3.5 percent vacancy rate in Parking Services, \$170,000 to plant 500 trees, \$118,000 for two water trucks, \$150,000 for contract monitors and parking analysts within Parking Services, \$1,409,000 for a neighborhood cleanup initiative, \$1,000,000 for tree maintenance, \$600,000 for an anti-graffiti program, \$226,000 for a hazardous waste program, \$1,260,000 for parking control aides, and \$400,000 for the Department of Motor Vehicles to hire additional ticket adjudicators, conduct additional hearings, and reduce the waiting time for hearings.

RECEIVERSHIP PROGRAMS

For all agencies of the District of Columbia government under court ordered receivership, \$389,528,000 (including \$234,913,000 from local funds, \$135,555,000 from Federal funds, and \$19,060,000 from other funds).

RESERVE

For replacement of funds expended, if any, during fiscal year 2000 from the Reserve established by section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Public Law 104-8, \$150,000,000 from local funds: *Provided*, That none of these funds shall be obligated or expended under this heading until the emergency reserve fund established under this Act has been fully funded for fiscal year 2001 pursuant to section 450A of the District of Columbia Home Rule Act as set forth herein.

EMERGENCY RESERVE FUND

For the emergency reserve fund established under section 450A(a) of the District of Columbia Home Rule Act, the amount provided for fiscal year 2001 under such section, to be derived from local funds.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act, approved December 24, 1973, \$243,238,000 from local funds: *Provided*, That any funds set aside pursuant to section 148 of the District of Columbia Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1523) that are not used in the reserve funds established herein shall be used for Pay-As-You-Go Capital Funds: *Provided further*, That for equipment leases, the Mayor may finance \$19,232,000 of equipment

cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years: *Provided further*, That \$2,000,000 is allocated to the Metropolitan Police Department, \$4,300,000 for the Fire and Emergency Medical Services Department, \$1,622,000 for the Public Library, \$2,010,000 for the Department of Parks and Recreation, \$7,500,000 for the Department of Public Works, and \$1,800,000 for the Public Benefit Corporation.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$39,300,000 from local funds, as authorized by section 461(a) of the District of Columbia Home Rule Act, (105 Stat. 540; D.C. Code, sec. 47-321(a)(1)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$1,140,000 from local funds.

PRESIDENTIAL INAUGURATION

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Home Rule Act, Public Law 93-198, as amended, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), \$5,961,000 from local funds, previously appropriated in this Act as a Federal payment, which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,950,000 from local funds.

WILSON BUILDING

For expenses associated with the John A. Wilson Building, \$8,409,000 from local funds.

OPTICAL AND DENTAL INSURANCE PAYMENTS

For optical and dental insurance payments, \$2,675,000 from local funds.

MANAGEMENT SUPERVISORY SERVICE

For management supervisory service, \$13,200,000 from local funds, to be transferred by the Mayor of the District of Columbia among the various appropriation headings in this Act for which employees are properly payable.

TOBACCO SETTLEMENT TRUST FUND TRANSFER PAYMENT

Subject to the issuance of bonds to pay the purchase price of the District of Columbia's right, title and interest in and to the Master Settlement Agreement, and consistent with the Tobacco Settlement Financing and Trust Fund Amendment Act of 2000, there is transferred the amount available pursuant thereto, but not to exceed \$61,406,000, to the Tobacco Settlement Trust Fund established pursuant to section 2302 of the Tobacco Settlement Trust Fund Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; to be codified at D.C. Code, sec. 6-135), to be spent pursuant to local law.

OPERATIONAL IMPROVEMENTS SAVINGS (INCLUDING MANAGED COMPETITION)

The Mayor and the Council, in consultation with the Chief Financial Officer and the District of Columbia Financial Responsibility and Management Assistance Authority, shall make reductions of \$10,000,000 for operational improvements savings in local funds to one or more of the appropriation headings in this Act.

MANAGEMENT REFORM SAVINGS

The Mayor and the Council, in consultation with the Chief Financial Officer and the

District of Columbia Financial Responsibility and Management Assistance Authority, shall make reductions of \$37,000,000 for management reform savings in local funds to one or more of the appropriation headings in this Act.

CAFETERIA PLAN SAVINGS

For the implementation of a Cafeteria Plan pursuant to Federal law, a reduction of \$5,000,000 in local funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY AND THE WASHINGTON AQUEDUCT

For operation of the Water and Sewer Authority and the Washington Aqueduct, \$275,705,000 from other funds (including \$230,614,000 for the Water and Sewer Authority and \$45,091,000 for the Washington Aqueduct) of which \$41,503,000 shall be apportioned and payable to the District's debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, \$140,725,000, as authorized by the Act entitled "An Act authorizing the laying of watermains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes" (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvements projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982 (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3-172; D.C. Code, sec. 2-2501 et seq. and sec. 22-1516 et seq.), \$223,200,000: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, \$10,968,000 from other funds: *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Home Rule Act (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

DISTRICT OF COLUMBIA HEALTH AND HOSPITALS PUBLIC BENEFIT CORPORATION (INCLUDING TRANSFER OF FUNDS)

For the District of Columbia Health and Hospitals Public Benefit Corporation, established by D.C. Law 11-212 (D.C. Code, sec. 32-262.2), \$123,548,000, of which \$45,313,000 shall be derived by transfer from the general fund, and \$78,235,000 from other funds: *Provided*, That no appropriated amounts and no amounts from or guaranteed by the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority) may be made available to the Corporation (through reprogramming, transfers, loans, or any other mechanism) which are not otherwise provided for under this heading until a restructuring plan for D.C. General Hospital has been approved by the Mayor of the Dis-

trict of Columbia, the Council of the District of Columbia, the Authority, the Chief Financial Officer of the District of Columbia, and the Chair of the Board of Directors of the Corporation: *Provided further*, That for each payment or group of payments made by or on behalf of the Corporation, the Chief Financial Officer of the District of Columbia shall sign an affidavit certifying that the making of the payment does not constitute a violation of any provision of subchapter III of chapter 13 of title 31, United States Code, or of any provision of this Act: *Provided further*, That more than one payment may be covered by the same affidavit under the previous proviso, but a single affidavit may not cover more than one week's worth of payments: *Provided further*, That it shall be unlawful for any person to order any other person to sign any affidavit required under this heading, or for any person to provide any signature required under this heading on such an affidavit by proxy or by machine, computer, or other facsimile device.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$11,414,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act (78 Stat. 1000; Public Law 88-622), \$1,808,000 from other funds.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$52,726,000 from other funds.

CAPITAL OUTLAY (INCLUDING RESCISSIONS)

For construction projects, an increase of \$1,077,282,000 of which \$806,787,000 is from local funds, \$66,446,000 is from highway trust funds, and \$204,049,000 is from Federal funds, and a rescission of \$55,208,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$1,022,074,000 to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal Aid Highway Act of 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 2002, except authorizations for projects as to which funds have been obli-

gated in whole or in part prior to September 30, 2002: *Provided further*, That upon expiration of any such project authorization, the funds provided herein for the project shall lapse.

GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the chair of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 104. (a) REQUIRING MAYOR TO MAINTAIN INDEX.—Effective with respect to fiscal year 2001 and each succeeding fiscal year, the Mayor of the District of Columbia shall maintain an index of all employment personal services and consulting contracts in effect on behalf of the District government, and shall include in the index specific information on any severance clause in effect under any such contract.

(b) PUBLIC INSPECTION.—The index maintained under subsection (a) shall be kept available for public inspection during regular business hours.

(c) CONTRACTS EXEMPTED.—Subsection (a) shall not apply with respect to any collective bargaining agreement or any contract entered into pursuant to such a collective bargaining agreement.

(d) DISTRICT GOVERNMENT DEFINED.—In this section, the term "District government" means the government of the District of Columbia, including—

(1) any department, agency or instrumentality of the government of the District of Columbia;

(2) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Home Rule Act or any other agency, board, or commission established by the Mayor or the Council;

(3) the Council of the District of Columbia;

(4) any other agency, public authority, or public benefit corporation which has the authority to receive monies directly or indirectly from the District of Columbia (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia); and

(5) the District of Columbia Financial Responsibility and Management Assistance Authority.

(e) No payment shall be made pursuant to any such contract subject to subsection (a), nor any severance payment made under such contract, if a copy of the contract has not been filed in the index. Interested parties may file copies of their contract or severance agreement in the index on their own behalf.

SEC. 105. No part of any appropriation contained in this Act shall remain available for

obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 106. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 107. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 108. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 109. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 110. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 111. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2001, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for an agency through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or responsibility center; (3) establishes or changes allocations specifically denied, limited or increased by Congress in this Act; (4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted; (5) reestablishes through reprogramming any program or project previously deferred through reprogramming; (6) augments existing programs, projects, or responsibility centers through a reprogramming of funds in excess of \$1,000,000 or 10 percent, whichever is less; or (7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center; unless the Committees on Appropriations of both the Senate and House of Representatives are notified in writing 30 days in advance of any reprogramming as set forth in this section.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a reprogramming of funds which transfers any local funds from one appropriation to another unless the Committees on Appropriations of the Senate and House of Representatives are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred ex-

ceed two percent of the local funds in the appropriation.

SEC. 112. Consistent with the provisions of 31 U.S.C. 1301(a), appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 113. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 114. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 2001, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 2001 revenue estimates as of the end of the first quarter of fiscal year 2001. These estimates shall be used in the budget request for the fiscal year ending September 30, 2002. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 115. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical: *Provided*, That the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and said determination has been reviewed and approved by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 116. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 117. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by such Act.

SEC. 118. ACCEPTANCE AND USE OF GIFTS. (a) APPROVAL BY MAYOR.—

(1) IN GENERAL.—An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 2001 if—
(A) the Mayor approves the acceptance and use of the gift or donation (except as provided in paragraph (2)); and

(B) the entity uses the gift or donation to carry out its authorized functions or duties.

(2) EXCEPTION FOR COUNCIL AND COURTS.—The Council of the District of Columbia and the District of Columbia courts may accept and use gifts without prior approval by the Mayor.

(b) RECORDS AND PUBLIC INSPECTION.—Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) INDEPENDENT AGENCIES INCLUDED.—For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) EXCEPTION FOR BOARD OF EDUCATION.—This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 119. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 120. (a) MODIFICATION OF CONTRACTING REQUIREMENTS.—

(1) CONTRACTS SUBJECT TO NOTICE REQUIREMENTS.—Section 2204(c)(1)(A) of the District of Columbia School Reform Act (sec. 31-2853.14(c)(1)(A), D.C. Code) is amended to read as follows:

"(A) NOTICE REQUIREMENT FOR PROCUREMENT CONTRACTS.—

"(i) IN GENERAL.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any procurement contract proposed to be awarded by the public charter school and having a value equal to or exceeding \$25,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 7 days prior to the award of the contract.

"(ii) EXCEPTION FOR CERTAIN CONTRACTS.—The notice requirement of clause (i) shall not apply with respect to any contract for the lease or purchase of real property by a public charter school, any employment contract for a staff member of a public charter school, or any management contract entered into by a public charter school and the management company designated in its charter or its petition for a revised charter."

(2) SUBMISSION OF CONTRACTS TO ELIGIBLE CHARTERING AUTHORITY.—Section 2204(c)(1)(B) of such Act (sec. 31-2853.14(c)(1)(B), D.C. Code) is amended—

(A) in the heading, by striking "AUTHORITY" and inserting "ELIGIBLE CHARTERING AUTHORITY";

(B) in clause (i), by striking "Authority" and inserting "eligible chartering authority"; and

(C) by amending clause (ii) to read as follows:

"(ii) EFFECTIVE DATE OF CONTRACT.—A contract described in subparagraph (A) shall become effective on the date that is 10 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later."

(b) CLARIFICATION OF APPLICATION OF SCHOOL REFORM ACT.—

(1) WAIVER OF DUPLICATE AND CONFLICTING PROVISIONS.—Section 2210 of such Act (sec.

31-2853.20, D.C. Code) is amended by adding at the end the following new subsection:

“(d) WAIVER OF APPLICATION OF DUPLICATE AND CONFLICTING PROVISIONS.—Notwithstanding any other provision of law, and except as otherwise provided in this title, no provision of any law regarding the establishment, administration, or operation of public charter schools in the District of Columbia shall apply with respect to a public charter school or an eligible chartering authority to the extent that the provision duplicates or is inconsistent with any provision of this title.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the District of Columbia School Reform Act of 1995.

(c) LICENSING REQUIREMENTS FOR PRESCHOOL OR PREKINDERGARTEN PROGRAMS.—

(1) IN GENERAL.—Section 2204(c) of such Act (sec. 31-2853.14(c), D.C. Code) is amended by adding at the end the following new paragraph:

“(18) LICENSING AS CHILD DEVELOPMENT CENTER.—A public charter school which offers a preschool or kindergarten program shall be subject to the same child care licensing requirements (if any) which apply to a District of Columbia public school which offers such a program.”.

(2) CONFORMING AMENDMENTS.—(A) Section 2202 of such Act (sec. 31-2853.12, D.C. Code) is amended by striking clause (17).

(B) Section 2203(h)(2) of such Act (sec. 31-2853.13(h)(2), D.C. Code) is amended by striking “(17).”.

(d) Section 2403 of the District of Columbia School Reform Act of 1995 (sec. 31-2853.43, D.C. Code) is amended by adding at the end the following new subsection:

“(c) ASSIGNMENT OF PAYMENTS.—A public charter school may assign any payments made to the school under this section to a financial institution for use as collateral to secure a loan or for the repayment of a loan.”.

(e) Section 2210 of the District of Columbia School Reform Act of 1995 (sec. 31-2853.20, D.C. Code), as amended by subsection (b), is further amended by adding at the end the following new subsection:

“(e) PARTICIPATION IN GSA PROGRAMS.—

“(1) IN GENERAL.—Notwithstanding any provision of this Act or any other provision of law, a public charter school may acquire goods and services through the General Services Administration and may participate in programs of the Administration in the same manner and to the same extent as any entity of the District of Columbia government.

“(2) PARTICIPATION BY CERTAIN ORGANIZATIONS.—A public charter school may delegate to a nonprofit, tax-exempt organization in the District of Columbia the public charter school's authority under paragraph (1).”.

SEC. 121. REPORTING REQUIREMENTS FOR THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS AND THE UNIVERSITY OF THE DISTRICT OF COLUMBIA. (a) The Superintendent of the District of Columbia Public Schools (DCPS) and the University of the District of Columbia (UDC) shall each submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate no later than 15 calendar days after the end of each quarter a report that sets forth—

(1) current quarter expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen,

broken out by control center, responsibility center, detailed object, and for all funding sources;

(3) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged, broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by DCPS and UDC; payments made in the last quarter and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education;

(5) all reprogramming requests and reports that have been made by UDC within the last quarter in compliance with applicable law; and

(6) changes made in the last quarter to the organizational structure of DCPS and UDC, displaying for each entity previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

(b) The Superintendent of DCPS and UDC shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall—

(1) set forth the number of validated schedule A positions in the District of Columbia public schools and UDC for fiscal year 2001, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary;

(2) set forth a compilation of all employees in the District of Columbia public schools and UDC as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number; and

(3) be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

(c) No later than November 1, 2000, or within 30 calendar days after the date of the enactment of this Act, whichever occurs later, and each succeeding year, the Superintendent of DCPS and UDC shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and UDC for such fiscal year: (1) that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures; and (2) that is in the format of the budget that the Superintendent of DCPS and UDC submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Home Rule Act (Public Law 93-198; D.C. Code, sec. 47-301).

SEC. 122. (a) None of the funds contained in this Act may be made available to pay the

fees of an attorney who represents a party who prevails in an action or any attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) if—

(1) the hourly rate of compensation of the attorney exceeds 250 percent of the hourly rate of compensation under section 11-2604(a), District of Columbia Code; or

(2) the maximum amount of compensation of the attorney exceeds 250 percent of the maximum amount of compensation under section 11-2604(b)(1), District of Columbia Code, except that compensation and reimbursement in excess of such maximum may be approved for extended or complex representation in accordance with section 11-2604(c), District of Columbia Code; and

(3) in no case may the compensation limits in paragraphs (1) and (2) exceed \$2,500.

(b) Notwithstanding the preceding subsection, if the Mayor and the Superintendent of the District of Columbia Public Schools concur in a Memorandum of Understanding setting forth a new rate and amount of compensation, then such new rates shall apply in lieu of the rates set forth in the preceding subsection to both the attorney who represents the prevailing party and the attorney who defends the action.

SEC. 123. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 124. None of the funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9-114; D.C. Code, sec. 36-1401 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples (whether homosexual, heterosexual, or lesbian), including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 125. The District of Columbia Financial Responsibility and Management Assistance Authority, acting on behalf of the District of Columbia Public Schools (DCPS) in formulating the DCPS budget, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the University of the District of Columbia School of Law shall vote on and approve the respective annual or revised budgets for such entities before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Home Rule Act (Public Law 93-198; D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

SEC. 126. (a) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer, during a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8; 109 Stat. 152), may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Authority a report setting forth detailed information regarding such grant; and

(B) the Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) of this subsection or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) QUARTERLY REPORTS.—The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the quarter covered by the report.

(b) REPORT ON EXPENDITURES BY FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.—Not later than 20 calendar days after the end of each fiscal quarter starting October 1, 2000, the Authority shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform of the House, and the Committee on Governmental Affairs of the Senate providing an itemized accounting of all non-appropriated funds obligated or expended by the Authority for the quarter. The report shall include information on the date, amount, purpose, and vendor name, and a description of the services or goods provided with respect to the expenditures of such funds.

SEC. 127. If a department or agency of the government of the District of Columbia is under the administration of a court-appointed receiver or other court-appointed official during fiscal year 2001 or any succeeding fiscal year, the receiver or official shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia for the year, annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the department or agency. All such estimates shall be forwarded by the Mayor to the Council, for its action pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act, without revision but subject to the Mayor's recommendations. Notwithstanding any provision of the District of Columbia Home Rule Act (87 Stat. 774; Public Law 93-198), the Council may comment or make recommendations concerning such annual estimates but shall have no authority under such Act to revise such estimates.

SEC. 128. (a) RESTRICTIONS ON USE OF OFFICIAL VEHICLES.—Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace (except: (1) in the case of an officer or employee of the Metropolitan Police Department who resides in the Dis-

trict of Columbia or is otherwise designated by the Chief of the Department; (2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day; (3) the Mayor of the District of Columbia; and (4) the Chairman of the Council of the District of Columbia).

(b) INVENTORY OF VEHICLES.—The Chief Financial Officer of the District of Columbia shall submit, by November 15, 2000, an inventory, as of September 30, 2000, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 129. (a) SOURCE OF PAYMENT FOR EMPLOYEES DETAILED WITHIN GOVERNMENT.—For purposes of determining the amount of funds expended by any entity within the District of Columbia government during fiscal year 2001 and each succeeding fiscal year, any expenditures of the District government attributable to any officer or employee of the District government who provides services which are within the authority and jurisdiction of the entity (including any portion of the compensation paid to the officer or employee attributable to the time spent in providing such services) shall be treated as expenditures made from the entity's budget, without regard to whether the officer or employee is assigned to the entity or otherwise treated as an officer or employee of the entity.

(b) MODIFICATION OF REDUCTION IN FORCE PROCEDURES.—Section 2408 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-625.7), is amended as follows:

(1) Subsection (a) is amended by striking "September 30, 2000" and inserting "September 30, 2000, and each subsequent fiscal year".

(2) Subsection (b) is amended by striking "Prior to February 1, 2000" and inserting "Prior to February 1 of each year".

(3) Subsection (i) is amended by striking "March 1, 2000" and inserting "March 1 of each year".

(4) Subsection (k) is amended by striking "September 1, 2000" and inserting "September 1 of each year".

(c) No officer or employee of the District of Columbia government (including any independent agency of the District but excluding the District of Columbia Financial Responsibility and Management Assistance Authority, the Metropolitan Police Department, and the Office of the Chief Technology Officer) may enter into an agreement in excess of \$2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procurement of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 130. Notwithstanding any other provision of law, not later than 120 days after the date that a District of Columbia Public

Schools (DCPS) student is referred for evaluation or assessment—

(1) the District of Columbia Board of Education, or its successor, and DCPS shall assess or evaluate a student who may have a disability and who may require special education services; and

(2) if a student is classified as having a disability, as defined in section 101(a)(1) of the Individuals with Disabilities Education Act (84 Stat. 175; 20 U.S.C. 1401(a)(1)) or in section 7(8) of the Rehabilitation Act of 1973 (87 Stat. 359; 29 U.S.C. 706(8)), the Board and DCPS shall place that student in an appropriate program of special education services.

SEC. 131. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 132. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority) for fiscal year 2001 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Code, sec. 1-1182.8(a)(4)); and

(2) the audit includes a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year.

SEC. 133. None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

SEC. 134. None of the funds contained in this Act may be used to transfer or confine inmates classified above the medium security level, as defined by the Federal Bureau of Prisons classification instrument, to the Northeast Ohio Correctional Center located in Youngstown, Ohio.

SEC. 135. Subsection 3(e) of Public Law 104-21 (D.C. Code sec. 7-134.2(e)) is amended to read as follows:

“(e) INSPECTOR GENERAL AUDIT.—Not later than February 1, 2001, and each February 1 thereafter, the Inspector General of the District of Columbia shall audit the financial statements of the District of Columbia Highway Trust Fund for the preceding fiscal year and shall submit to Congress a report on the results of such audit. Not later than May 31, 2001, and each May 31 thereafter, the Inspector General shall examine the statements forecasting the conditions and operations of the Trust Fund for the next five fiscal years commencing on the previous October 1 and shall submit to Congress a report on the results of such examination.”.

SEC. 136. No later than November 1, 2000, or within 30 calendar days after the date of the enactment of this Act, whichever occurs later, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the District of Columbia Financial Responsibility and Management Assistance Authority a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (Public Law 93-198; D.C. Code, sec. 47-301), for all agencies of the District of Columbia government for such fiscal year that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 137. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 138. (a) RESTRICTIONS ON LEASES.—Upon the expiration of the 60-day period that begins on the date of the enactment of this Act, none of the funds contained in this Act may be used to make rental payments under a lease for the use of real property by the District of Columbia government (including any independent agency of the District) unless the lease and an abstract of the lease have been filed (by the District of Columbia or any other party to the lease) with the central office of the Deputy Mayor for Economic Development, in an indexed registry available for public inspection.

(b) ADDITIONAL RESTRICTIONS ON CURRENT LEASES.—

(1) IN GENERAL.—Upon the expiration of the 60-day period that begins on the date of the enactment of this Act, in the case of a lease described in paragraph (3), none of the funds contained in this Act may be used to make rental payments under the lease unless the lease is included in periodic reports submitted by the Mayor and Council of the District of Columbia to the Committees on Appropriations of the House of Representatives and Senate describing for each such lease the following information:

(A) The location of the property involved, the name of the owners of record according to the land records of the District of Columbia, the name of the lessors according to the lease, the rate of payment under the lease, the period of time covered by the lease, and the conditions under which the lease may be terminated.

(B) The extent to which the property is or is not occupied by the District of Columbia government as of the end of the reporting period involved.

(C) If the property is not occupied and utilized by the District government as of the end of the reporting period involved, a plan for occupying and utilizing the property (including construction or renovation work) or a status statement regarding any efforts by the District to terminate or renegotiate the lease.

(2) TIMING OF REPORTS.—The reports described in paragraph (1) shall be submitted for each calendar quarter (beginning with the quarter ending December 31, 2000) not later than 20 days after the end of the quarter involved, plus an initial report submitted not later than 60 days after the date of the enactment of this Act, which shall provide information as of the date of the enactment of this Act.

(3) LEASES DESCRIBED.—A lease described in this paragraph is a lease in effect as of the date of the enactment of this Act for the use of real property by the District of Columbia government (including any independent agency of the District) which is not being occupied by the District government (including any independent agency of the District) as of such date or during the 60-day period which begins on the date of the enactment of this Act.

SEC. 139. (a) MANAGEMENT OF EXISTING DISTRICT GOVERNMENT PROPERTY.—Upon the expiration of the 60-day period that begins on the date of the enactment of this Act, none of the funds contained in this Act may be used to enter into a lease (or to make rental payments under such a lease) for the use of real property by the District of Columbia government (including any independent agency of the District) or to purchase real property for the use of the District of Columbia government (including any independent agency of the District) or to manage real property for the use of the District of Columbia (including any independent agency of the District) unless the following conditions are met:

(1) The Mayor and Council of the District of Columbia certify to the Committees on Appropriations of the House of Representatives and Senate that existing real property available to the District (whether leased or owned by the District government) is not suitable for the purposes intended.

(2) Notwithstanding any other provisions of law, there is made available for sale or lease all real property of the District of Columbia that the Mayor from time-to-time determines is surplus to the needs of the District of Columbia, unless a majority of the members of the Council override the Mayor's determination during the 30-day period which begins on the date the determination is published.

(3) The Mayor and Council implement a program for the periodic survey of all District property to determine if it is surplus to the needs of the District.

(4) The Mayor and Council within 60 days of the date of the enactment of this Act have filed with the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report which provides a comprehensive plan for the management of District of Columbia real property assets, and are proceeding with the implementation of the plan.

(b) TERMINATION OF PROVISIONS.—If the District of Columbia enacts legislation to reform the practices and procedures governing the entering into of leases for the use of real property by the District of Columbia government and the disposition of surplus real property of the District government, the provisions of subsection (a) shall cease to be effective upon the effective date of the legislation.

SEC. 140. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority and any independent agency of the District) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted, and the District's Chief Financial Officer shall provide to the Committees on Appropriations of the Senate and the House of Representatives by the 10th day after the end of each quarter a summary list showing each report, the due date and the date submitted to the Committees.

SEC. 141. The proposed budget of the government of the District of Columbia for fiscal year 2002 that is submitted by the District to Congress shall specify potential adjustments that might become necessary in the event that the operational improvements savings, including managed competition, and management reform savings achieved by the District during the year do not meet the level of management savings projected by the District under the proposed budget.

SEC. 142. In submitting any document showing the budget for an office of the District of Columbia government (including an independent agency of the District) that contains a category of activities labeled as “other”, “miscellaneous”, or a similar general, nondescriptive term, the document shall include a description of the types of activities covered in the category and a detailed breakdown of the amount allocated for each such activity.

SEC. 143. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 144. Notwithstanding any other provision of law, the Mayor of the District of Columbia is hereby solely authorized to allocate the District's limitation amount of qualified zone academy bonds (established pursuant to 26 U.S.C. 1397E) among qualified zone academies within the District.

SEC. 145. (a) Section 11232 of the Balanced Budget Act of 1997 (sec. 24-1232, D.C. Code) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j); and

(2) by inserting after subsection (e) the following new subsection:

“(f) TREATMENT AS FEDERAL EMPLOYEES.—

“(1) IN GENERAL.—The Trustee and employees of the Trustee who are not covered under subsection (e) shall be treated as employees of the Federal Government solely for purposes of the following provisions of title 5, United States Code:

“(A) Chapter 83 (relating to retirement).

“(B) Chapter 84 (relating to the Federal Employees' Retirement System).

“(C) Chapter 87 (relating to life insurance).

“(D) Chapter 89 (relating to health insurance).

“(2) EFFECTIVE DATES OF COVERAGE.—The effective dates of coverage of the provisions of paragraph (1) are as follows:

“(A) In the case of the Trustee and employees of the Office of the Trustee and the Office of Adult Probation, August 5, 1997, or the date of appointment, whichever is later.

“(B) In the case of employees of the Office of Parole, October 11, 1998, or the date of appointment, whichever is later.

“(C) In the case of employees of the Pretrial Services Agency, January 3, 1999, or the date of appointment, whichever is later.

“(3) RATE OF CONTRIBUTIONS.—The Trustee shall make contributions under the provisions referred to in paragraph (1) at the same rates applicable to agencies of the Federal Government.

“(4) REGULATIONS.—The Office of Personnel Management shall issue such regulations as are necessary to carry out this subsection.”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

SEC. 146. It is the sense of the Congress that the District of Columbia Financial Responsibility and Management Assistance Authority should quickly complete the sale of the Franklin School property, a property which has been vacant for over 20 years.

SEC. 147. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a “conscience clause” which provides exceptions for religious beliefs and moral convictions.

SEC. 148. (a) Chapter 23 of title 11, District of Columbia, is hereby repealed.

(b) The table of chapters for title 11, District of Columbia, is amended by striking the item relating to chapter 23.

(c) The amendments made by this section shall take effect on the date on which legislation enacted by the Council of the District of Columbia to establish the Office of the Chief Medical Examiner in the executive branch of the government of the District of Columbia takes effect.

PROMPT PAYMENT OF APPOINTED COUNSEL

SEC. 149. (a) ASSESSMENT OF INTEREST FOR DELAYED PAYMENTS.—If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

(b) PAYMENTS DESCRIBED.—A payment described in this subsection is—

(1) a payment authorized under section 11-2604 and section 11-2605, D.C. Code (relating to representation provided under the District of Columbia Criminal Justice Act);

(2) a payment for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code; or

(3) a payment for counsel authorized under section 21-2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

(c) STANDARDS FOR SUBMISSION OF COMPLETED VOUCHERS.—The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Ap-

peals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

(e) EFFECTIVE DATE.—This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals after the expiration of the 90-day period which begins on the date of the enactment of this Act.

SEC. 150. (a) Effective 120 days after the date of the enactment of this Act, it shall be unlawful for any person to distribute any needle or syringe for the hypodermic injection of any illegal drug in any area of the District of Columbia which is within 1000 feet of a public or private elementary or secondary school (including a public charter school). It is stipulated that based on a survey by the Metropolitan Police Department of the District of Columbia that sites at 4th Street Northeast and Rhode Island Avenue Northeast, Southern Avenue Southeast and Central Avenue Southeast, 1st Street Southeast and M Street Southeast, 21st Street Northeast and H Street Northeast, Minnesota Avenue Northeast and Clay Place Northeast, and 15th Street Southeast and Ives Street Southeast are outside the 1000-foot perimeter. Sites at North Capitol Street and New York Avenue Northeast, Division Avenue Northeast and Foote Street Northeast, Georgia Avenue Northwest and New Hampshire Avenue Northwest, and 15th Street Northeast and A Street Northeast are found to be within the 1000-foot perimeter.

(b) The Public Housing Police of the District of Columbia Housing Authority shall prepare a monthly report on activity involving illegal drugs at or near any public housing site where a needle exchange program is conducted, and shall submit such reports to the Executive Director of the District of Columbia Housing Authority, who shall submit them to the Committees on Appropriations of the House of Representatives and Senate. The Executive Director shall ascertain any concerns of the residents of any public housing site about any needle exchange program conducted on or near the site, and this information shall be included in these reports. The District of Columbia Government shall take appropriate action to require relocation of any such program if so recommended by the police or by a significant number of residents of such site.

FEDERAL CONTRIBUTION FOR ENFORCEMENT OF LAW BANNING POSSESSION OF TOBACCO PRODUCTS BY MINORS

SEC. 151. (a) CONTRIBUTION.—There is hereby appropriated a Federal contribution of \$100,000 to the Metropolitan Police Department of the District of Columbia, effective upon the enactment by the District of Columbia of a law which reads as follows:

“SECTION 1. BAN ON POSSESSION OF TOBACCO PRODUCTS BY MINORS.

“(a) IN GENERAL.—It shall be unlawful for any individual under 18 years of age to possess any cigarette or other tobacco product in the District of Columbia.

“(b) EXCEPTIONS.—

“(1) POSSESSION IN COURSE OF EMPLOYMENT.—Subsection (a) shall not apply with respect to an individual making a delivery of cigarettes or tobacco products in pursuance of employment.

“(2) PARTICIPATION IN LAW ENFORCEMENT OPERATION.—Subsection (a) shall not apply

with respect to an individual possessing products in the course of a valid, supervised law enforcement operation.

“(c) PENALTIES.—Any individual who violates subsection (a) shall be subject to the following penalties:

“(1) For any violation, the individual may be required to perform community service or attend a tobacco cessation program.

“(2) Upon the first violation, the individual shall be subject to a civil penalty not to exceed \$50.

“(3) Upon the second and each subsequent violation, the individual shall be subject to a civil penalty not to exceed \$100.

“(4) Upon the third and each subsequent violation, the individual may have his or her driving privileges in the District of Columbia suspended for a period of 90 consecutive days.”.

(b) USE OF CONTRIBUTION.—The Metropolitan Police Department shall use the contribution made under subsection (a) to enforce the law referred to in such subsection.

SEC. 152. Nothing in this Act bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 153. (a) Nothing in the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301 et seq.) may be construed to prohibit the Administrator of the Environmental Protection Agency from negotiating and entering into cooperative agreements and grants authorized by law which affect real property of the Federal Government in the District of Columbia if the principal purpose of the cooperative agreement or grant is to provide comparable benefits for Federal and non-Federal properties in the District of Columbia.

(b) Subsection (a) shall apply with respect to fiscal year 2001 and each succeeding fiscal year.

SEC. 154. (a) IN GENERAL.—The District of Columbia Home Rule Act, as amended by section 159(a) of this Act, is further amended by inserting after section 450A the following new section:

“COMPREHENSIVE FINANCIAL MANAGEMENT POLICY

“SEC. 450B. (a) COMPREHENSIVE FINANCIAL MANAGEMENT POLICY.—The District of Columbia shall conduct its financial management in accordance with a comprehensive financial management policy.

“(b) CONTENTS OF POLICY.—The comprehensive financial management policy shall include, but not be limited to, the following:

“(1) A cash management policy.

“(2) A debt management policy.

“(3) A financial asset management policy.

“(4) An emergency reserve management policy in accordance with section 450A(a).

“(5) A contingency reserve management policy in accordance with section 450A(b).

“(6) A policy for determining real property tax exemptions for the District of Columbia.

“(c) ANNUAL REVIEW.—The comprehensive financial management policy shall be reviewed at the end of each fiscal year by the Chief Financial Officer who shall—

“(1) not later than July 1 of each year, submit any proposed changes in the policy to the Mayor and (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) for review;

“(2) not later than August 1 of each year, after consideration of any comments received under paragraph (1), submit the changes to the Council of the District of Columbia (Council) for approval; and

“(3) not later than September 1 of each year, notify the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate of any changes enacted by the Council.

“(d) PROCEDURE FOR DEVELOPMENT OF FIRST COMPREHENSIVE FINANCIAL MANAGEMENT POLICY.—

“(1) CHIEF FINANCIAL OFFICER.—Not later than April 1, 2001, the Chief Financial Officer shall submit to the Mayor an initial proposed comprehensive financial management policy for the District of Columbia pursuant to this section.

“(2) COUNCIL.—Following review and comment by the Mayor, not later than May 1, 2001, the Chief Financial Officer shall submit the proposed financial management policy to the Council for its prompt review and adoption.

“(3) AUTHORITY.—Upon adoption of the financial management policy under paragraph (2), the Council shall immediately submit the policy to the Authority for a review of not to exceed 30 days.

“(4) CONGRESS.—Following review of the financial management policy by the Authority under paragraph (3), the Authority shall submit the policy to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate for review, and the policy shall take effect 30 days after the date the policy is submitted under this paragraph.”.

(b) CLERICAL AMENDMENT.—The table of contents for the District of Columbia Home Rule Act is amended by inserting after the item relating to section 450A the following new item:

“Sec. 450B. Comprehensive financial management policy.”.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000.

APPOINTMENT AND DUTIES OF CHIEF FINANCIAL OFFICER

SEC. 155. (a) APPOINTMENT AND DISMISSAL.—Section 424(b) of the District of Columbia Home Rule Act (sec. 47-317.2, D.C. Code) is amended—

(1) in paragraph (1)(B), by adding at the end the following: “Upon confirmation by the Council, the name of the Chief Financial Officer shall be submitted to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives for a 30-day period of review and comment before the appointment takes effect.”; and

(2) in paragraph (2)(B), by striking the period at the end and inserting the following: “upon dismissal by the Mayor and approval of that dismissal by a $\frac{2}{3}$ vote of the Council. Upon approval of the dismissal by the Council, notice of the dismissal shall be submitted to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives for a 30-day period of review and comment before the dismissal takes effect.”.

(b) FUNCTIONS.—

(1) IN GENERAL.—Section 424(c) of such Act (sec. 47-317.3, D.C. Code) is amended—

(A) in the heading, by striking “DURING A CONTROL YEAR”;

(B) in the matter preceding paragraph (1), by striking “During a control year, the Chief Financial Officer” and inserting “The Chief Financial Officer”;

(C) in paragraph (1), by striking “Preparing” and inserting “During a control year, preparing”;

(D) in paragraph (3), by striking “Assuring” and inserting “During a control year, assuring”;

(E) in paragraph (5), by striking “With the approval” and all that follows through “the Council—” and inserting “Preparing and submitting to the Mayor and the Council, with the approval of the Authority during a control year—”;

(F) in paragraph (11), by striking “or the Authority” and inserting “(or by the Authority during a control year)”; and

(G) by adding at the end the following new paragraphs:

“(18) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer (except that the Chief Financial Officer may delegate any portion of such responsibility as the Chief Financial Officer considers appropriate and consistent with efficiency).

“(19) Administering all borrowing programs of the District government for the issuance of long-term and short-term indebtedness.

“(20) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts.

“(21) Administering the centralized District government payroll and retirement systems.

“(22) Governing the accounting policies and systems applicable to the District government.

“(23) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government.

“(24) Not later than 120 days after the end of each fiscal year, preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4).”.

(2) CONFORMING AMENDMENTS.—Section 424 of such Act (sec. 47-317.1 et seq., D.C. Code) is amended—

(A) by striking subsection (d);

(B) in subsection (e)(2), by striking “or subsection (d)” and

(C) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 156. (a) Notwithstanding the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Code 1-601.1 et seq.), or any other District of Columbia law, statute, regulation, the provisions of the District of Columbia Personnel Manual, or the provisions of any collective bargaining agreement, employees of the District of Columbia government will only receive compensation for overtime work in excess of 40 hours per week (or other applicable tour of duty) of work actually performed, in accordance with the provisions of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

(b) Subsection (a) of this section shall be effective December 27, 1996. The Resolution and Order of the District of Columbia Financial Responsibility and Management Assistance Authority, dated December 27, 1996, is hereby ratified and approved and shall be given full force and effect.

SEC. 157. (a) IN GENERAL.—Notwithstanding section 503 of Public Law 100-71 and as provided in subsection (b), the Court Services and Offender Supervision Agency for the District of Columbia (in this section referred to as the “agency”) may implement and administer the Drug Free Workplace Program of the agency, dated July 28, 2000, for employment applicants of the agency.

(b) EFFECTIVE PERIOD.—The waiver provided by subsection (a) shall—

(1) take effect on enactment; and

(2) terminate on the date the Department of Health and Human Services approves the drug program of the agency pursuant to section 503 of Public Law 100-71 or 12 months after the date referred to in paragraph (1), whichever is later.

SEC. 158. Commencing October 1, 2000, the Mayor of the District of Columbia shall submit to the Senate and House Committees on Appropriations, the Senate Governmental Affairs Committee, and the House Government Reform Committee quarterly reports addressing the following issues: (1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets; (2) access to drug abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs; (3) management of parolees and pre-trial violent offenders, including the number of halfway house escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency; (4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools; (5) improvement in basic District services, including rat control and abatement; (6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but which the District failed to spend the amounts received; and (7) indicators of child well-being.

RESERVE FUNDS

SEC. 159. (a) ESTABLISHMENT OF RESERVE FUNDS.—

(1) IN GENERAL.—The District of Columbia Home Rule Act is amended by inserting after section 450 the following new section:

“RESERVE FUNDS

“SEC. 450A. (a) EMERGENCY RESERVE FUND.—

“(1) IN GENERAL.—There is established an emergency cash reserve fund (in this subsection referred to as the ‘emergency reserve fund’) as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in cash not later than February 15 of each fiscal year (or not later than October 1, 2000, in the case of fiscal year 2001) such amount as may be required to maintain a balance in the fund of at least 4 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2004, such amount as may be required to maintain a balance in the fund of at least the minimum emergency reserve balance for such fiscal year, as determined under paragraph (2)).

“(2) DETERMINATION OF MINIMUM EMERGENCY RESERVE BALANCE.—

“(A) IN GENERAL.—The ‘minimum emergency reserve balance’ with respect to a fiscal year is the amount equal to the applicable percentage of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the ‘applicable percentage’ with respect to a fiscal year means the following:

“(i) For fiscal year 2001, 1 percent.

“(ii) For fiscal year 2002, 2 percent.

“(iii) For fiscal year 2003, 3 percent.

“(3) INTEREST.—Interest earned on the emergency reserve fund shall remain in the account and shall only be withdrawn in accordance with paragraph (4).

“(4) CRITERIA FOR USE OF AMOUNTS IN EMERGENCY RESERVE FUND.—The Chief Financial Officer, in consultation with the Mayor, shall develop a policy to govern the emergency reserve fund which shall include (but which may not be limited to) the following requirements:

“(A) The emergency reserve fund may be used to provide for unanticipated and non-recurring extraordinary needs of an emergency nature, including a natural disaster or calamity as defined by section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 100-707) or unexpected obligations by Federal law.

“(B) The emergency reserve fund may also be used in the event of a State of Emergency as declared by the Mayor pursuant to section 5 of the District of Columbia Public Emergency Act of 1980 (sec. 6-1504, D.C. Code).

“(C) The emergency reserve fund may not be used to fund—

“(i) any department, agency, or office of the Government of the District of Columbia which is administered by a receiver or other official appointed by a court;

“(ii) shortfalls in any projected reductions which are included in the budget proposed by the District of Columbia for the fiscal year; or

“(iii) settlements and judgments made by or against the Government of the District of Columbia.

“(5) ALLOCATION OF EMERGENCY CASH RESERVE FUNDS.—Funds may be allocated from the emergency reserve fund only after—

“(A) an analysis has been prepared by the Chief Financial Officer of the availability of other sources of funding to carry out the purposes of the allocation and the impact of such allocation on the balance and integrity of the emergency reserve fund; and

“(B) with respect to fiscal years beginning with fiscal year 2005, the contingency reserve fund established by subsection (b) has been projected by the Chief Financial Officer to be exhausted at the time of the allocation.

“(6) NOTICE.—The Mayor, the Council, and (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) the District of Columbia Financial Responsibility and Management Assistance Authority shall notify the Committees on Appropriations of the Senate and House of Representatives in writing not more than 30 days after the expenditure of funds from the emergency reserve fund.

“(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal year by the following fiscal year. Once the emergency reserve equals 4 percent of total budget appropriated from local funds for operating expenditures for the fiscal year, the District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding year to maintain a balance of at least 4 percent of total funds appropriated from local funds for operating expenditures by the following fiscal year.

“(b) CONTINGENCY RESERVE FUND.—

“(1) IN GENERAL.—There is established a contingency cash reserve fund (in this subsection referred to as the ‘contingency reserve fund’) as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in

cash not later than October 1 of each fiscal year (beginning with fiscal year 2005) such amount as may be required to maintain a balance in the fund of at least 3 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2007, such amount as may be required to maintain a balance in the fund of at least the minimum contingency reserve balance for such fiscal year, as determined under paragraph (2)).

“(2) DETERMINATION OF MINIMUM CONTINGENCY RESERVE BALANCE.—

“(A) IN GENERAL.—The ‘minimum contingency reserve balance’ with respect to a fiscal year is the amount equal to the applicable percentage of the total budget appropriated from local funds for operating expenditures for such fiscal year which is derived from local funds.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the ‘applicable percentage’ with respect to a fiscal year means the following:

“(i) For fiscal year 2005, 1 percent.

“(ii) For fiscal year 2006, 2 percent.

“(3) INTEREST.—Interest earned on the contingency reserve fund shall remain in the account and may only be withdrawn in accordance with paragraph (4).

“(4) CRITERIA FOR USE OF AMOUNTS IN CONTINGENCY RESERVE FUND.—The Chief Financial Officer, in consultation with the Mayor, shall develop a policy governing the use of the contingency reserve fund which shall include (but which may not be limited to) the following requirements:

“(A) The contingency reserve fund may only be used to provide for nonrecurring or unforeseen needs that arise during the fiscal year, including expenses associated with unforeseen weather or other natural disasters, unexpected obligations created by Federal law or new public safety or health needs or requirements that have been identified after the budget process has occurred, or opportunities to achieve cost savings.

“(B) The contingency reserve fund may be used, if needed, to cover revenue shortfalls experienced by the District government for 3 consecutive months (based on a 2 month rolling average) that are 5 percent or more below the budget forecast.

“(C) The contingency reserve fund may not be used to fund any shortfalls in any projected reductions which are included in the budget proposed by the District of Columbia for the fiscal year.

“(5) ALLOCATION OF CONTINGENCY CASH RESERVE.—Funds may be allocated from the contingency reserve fund only after an analysis has been prepared by the Chief Financial Officer of the availability of other sources of funding to carry out the purposes of the allocation and the impact of such allocation on the balance and integrity of the contingency reserve fund.

“(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal year by the following fiscal year. Once the contingency reserve equals 3 percent of total funds appropriated from local funds for operating expenditures, the District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding year to maintain a balance of at least 3 percent of total funds appropriated from local funds for operating expenditures by the following fiscal year.

“(c) QUARTERLY REPORTS.—The Chief Financial Officer shall submit a quarterly report to the Mayor, the Council, the District

of Columbia Financial Responsibility and Management Assistance Authority (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), and the Committees on Appropriations of the Senate and House of Representatives that includes a monthly statement on the balance and activities of the contingency and emergency reserve funds.”.

(2) CLERICAL AMENDMENT.—The table of contents for the District of Columbia Home Rule Act is amended by inserting after the item relating to section 450 the following new item:

“Sec. 450A. Reserve funds.”.

(b) CONFORMING AMENDMENTS.—

(1) CURRENT RESERVE FUND.—Section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47-392.2(j), D.C. Code) is amended—

(A) in paragraph (1), by striking “Beginning with fiscal year 2000, the plan or budget submitted pursuant to this Act” and inserting “For each of the fiscal years 2000 through 2004, the budget of the District government for the fiscal year”; and

(B) by adding at the end the following new paragraph:

“(4) REPLENISHMENT.—Any amount of the reserve funds which is expended in one fiscal year shall be replenished in the reserve funds from the following fiscal year appropriations to maintain the \$150,000,000 balance.”.

(2) POSITIVE FUND BALANCE.—Section 202(k) of such Act (sec. 47-392.2(k), D.C. Code) is repealed.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000.

TREATMENT OF REVENUE BONDS SECURED BY TOBACCO SETTLEMENT PAYMENTS

SEC. 160. (a) PERMITTING COUNCIL TO DELEGATE AUTHORITY TO ISSUE BONDS.—

(1) IN GENERAL.—Section 490 of the District of Columbia Home Rule Act (sec. 47-334, D.C. Code) is amended—

(A) by redesignating subsections (i) through (m) as subsections (j) through (n); and

(B) by inserting after subsection (h) the following new subsection:

“(i)(1) The Council may delegate to the District of Columbia Tobacco Settlement Financing Corporation (hereafter in this subsection referred to as the ‘Corporation’) established pursuant to the Tobacco Settlement Financing Act of 2000 the authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations which are used to borrow money to finance or assist in the financing or refinancing of capital projects and other undertakings of the District of Columbia and which are payable solely from and secured by payments under the Master Tobacco Settlement Agreement. The Corporation may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection and the provisions of the Tobacco Settlement Financing Act of 2000.

“(2) Revenue bonds, notes, and other obligations issued by the Corporation under a delegation of authority described in paragraph (1) shall be issued by resolution of the Corporation, and any such resolution shall not be considered to be an act of the Council.

“(3) The fourth sentence of section 446 shall not apply to—

“(A) any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of

any revenue bond, note, or other obligation issued pursuant to this subsection;

“(B) any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued pursuant to this subsection;

“(C) any amount obligated or expended to secure any revenue bond, note, or other obligation issued pursuant to this subsection; or

“(D) any amount obligated or expended for repair, maintenance, and capital improvements to facilities financed pursuant to this subsection.

“(4) In this subsection, the term ‘Master Tobacco Settlement Agreement’ means the settlement agreement (and related documents), as may be amended from time to time, entered into on November 23, 1998, by the District of Columbia and leading United States tobacco product manufacturers.”.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 446 of such Act (sec. 47-304, D.C. Code) is amended by striking “and (h)(3)” and inserting “(h)(3), and (i)(3)”.

(b) WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR TOBACCO SETTLEMENT FINANCING ACT.—Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act (sec. 1-233(c)(1), D.C. Code), the Tobacco Settlement Financing Act of 2000 (title XXXVII of D.C. Act 13-375, as amended by section 8(e) of D.C. Act 13-387) shall take effect on the date of the enactment of such Act or the date of the enactment of this Act, whichever is later.

SEC. 161. Section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996 (Public Law 104-208; 110 Stat. 3009-293), as amended by section 153 of the District of Columbia Appropriations Act, 2000, is amended—

(1) by amending the second sentence of paragraph (2)(B) to read as follows: “Of such amounts and proceeds, \$5,000,000 shall be set aside for a credit enhancement fund for public charter schools in the District of Columbia, to be administered and disbursed in accordance with paragraph (3).”; and

(2) by adding at the end the following new paragraph:

“(3) CREDIT ENHANCEMENT FUND FOR PUBLIC CHARTER SCHOOLS.—

“(A) DISTRIBUTION OF AMOUNTS.—Of the amounts in the credit enhancement fund established under paragraph (2)(B)—

“(i) 50 percent shall be used to make grants under subparagraph (B); and

“(ii) 50 percent shall be used to make grants under subparagraph (C).

“(B) GRANTS TO ELIGIBLE NONPROFIT CORPORATIONS.—

“(i) IN GENERAL.—Using the amounts described in subparagraph (A)(i), not later than 1 year after the date of the enactment of the District of Columbia Appropriations Act, 2001, the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

“(ii) ADMINISTRATION.—The Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

“(C) OTHER GRANTS.—

“(i) IN GENERAL.—Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to carry out the purposes described in subparagraph (E).

“(ii) PARTICIPATION OF SCHOOLS.—A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in sub-

paragraph (E) in the same manner as other entities receiving grants to carry out such activities.

“(iii) ADMINISTRATION THROUGH COMMITTEE.—The Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to the enactment of the District of Columbia Appropriations Act, 2001). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

“(iv) CAP ON ADMINISTRATIVE COSTS.—Not more than 10% of the funds available for grants under this subparagraph may be used to cover the administrative costs of making grants under this subparagraph.

“(D) SPECIAL RULE REGARDING ELIGIBILITY OF NONPROFIT CORPORATIONS.—In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

“(E) PURPOSES OF GRANTS.—

“(i) IN GENERAL.—The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in—

“(I) obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

“(II) obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs; and

“(III) enhancing the availability of loans (including mortgages) and bonds.

“(ii) NO DIRECT FUNDING FOR SCHOOLS.—Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.”.

SEC. 162. (a) EXCLUSIVE AUTHORITY OF MAYOR.—Notwithstanding section 451 of the District of Columbia Home Rule Act or any other provision of District of Columbia or Federal law to the contrary, the Mayor of the District of Columbia shall have the exclusive authority to approve and execute leases of the Washington Marina and the Washington municipal fish wharf with the existing lessees thereof for an initial term of 30 years, together with such other terms and conditions (including renewal options) as the Mayor deems appropriate.

(b) DEFINITIONS.—In this section—

(1) the term “Washington Marina” means the portions of Federal property in the Southwest quadrant of the District of Columbia within Lot 848 in Square 473, the unassessed Federal real property adjacent to Lot 848 in Square 473, and riparian rights appurtenant thereto; and

(2) the term “Washington municipal fish wharf” means the water frontage on the Potomac River lying south of Water Street between 11th and 12th Streets, including the buildings and wharves thereon.

SEC. 163. Section 11201(g)(4)(A) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Code, sec. 24-1201(g)(4)(A)) is amended—

(1) by redesignating clauses (vi) through (ix) as clauses (vii) through (x), respectively; and

(2) by inserting after clause (v) the following:

“(vi) immediately upon completing the remediation required under clause (ii) (but in no event later than June 1, 2003), transfer any property located south of Silverbrooke Road which is identified for use for educational purposes in the Fairfax County reuse plan to the County, without consideration, subject to the condition that the County use the property only for educational purposes;”.

SEC. 164. (a) Section 208(a) of the District of Columbia Procurement Practices Act of 1985 (sec. 1-1182.8(a), D.C. Code) is amended—

(1) in paragraph (4)(A), by striking “the same auditor)” and inserting “the same auditor, except as may be provided in paragraph (5)); and

(2) by adding at the end the following new paragraph:

“(5) Notwithstanding paragraph (4)(A), an auditor who is a subcontractor to the auditor who audited the financial statement and report described in paragraph (3)(H) for a fiscal year may audit the financial statement and report for any succeeding fiscal year (as either the prime auditor or as a subcontractor to another auditor) if—

“(A) such subcontractor is not a signatory to the statement and report for the previous fiscal year;

“(B) the prime auditor reviewed and approved the work of the subcontractor on the statement and report for the previous fiscal year; and

“(C) the subcontractor is not an employee of the prime contractor or of an entity owned, managed, or controlled by the prime contractor.”.

(b) The amendment made by subsection (a) shall apply with respect to financial statements and reports for activities of the District of Columbia Government for fiscal years beginning with fiscal year 2001.

SEC. 165. Section 11201(g) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Code, sec. 24-1201(g)) is amended by adding at the end the following new paragraph:

“(6) MEADOWOOD FARM LAND EXCHANGE.—

“(A) IN GENERAL.—If, not later than January 15, 2001, Fairfax County, Virginia, agrees to convey fee simple title to the property on Mason Neck in excess of 800 acres depicted on the map dated June 2000, on file in the Office of the Director of the Bureau of Land Management, Eastern States (hereafter in this paragraph referred to as ‘Meadowood Farm’) to the Secretary of the Interior, then the Administrator of General Services shall agree to convey to Fairfax County, Virginia, fee simple title to the property located at the Lorton Correctional Complex north of Silverbrook Road, and consisting of more than 200 acres identified in the Fairfax County Reuse Plan, dated July 26, 1999, as land available for residential development in Land Units 1 and 2 (hereafter in this paragraph referred to as the ‘Laurel Hill Residential Land’), the actual exchange to occur no later than December 31, 2001.

“(B) TERMS AND CONDITIONS.—(i) When Fairfax County transfers fee simple title to Meadowood Farm to the Secretary of the Interior, the Administrator of General Services shall simultaneously transfer to the County the Laurel Hill Residential Land.

“(ii) The transfer of property to Fairfax County, Virginia, under clause (i) shall be subject to such terms and conditions that the Administrator of General Services considers to be appropriate to protect the interests of the United States.

“(iii) Any proceeds derived from the sale of the Laurel Hill Residential Land by Fairfax County that exceed the County’s cost of acquiring, financing (which shall be deemed a County cost from the time of financing of the Meadowood Farm acquisition to the receipt of proceeds of the sale or sales of the Laurel Hill Residential Land until such time as the proceeds of such sale or sales exceed the acquisition and financing costs of Meadowood Farm to the County), preparing, and conveying Meadowood Farm and costs incurred for improving, preparing, and conveying the Laurel Hill Residential Land shall be remitted to the United States and deposited into the special fund established pursuant to paragraph (4)(A)(viii).

“(C) MANAGEMENT OF PROPERTY.—The property transferred to the Secretary of the Interior under this section shall be managed by the Bureau of Land Management for public use and recreation purposes.”.

SEC. 166. Section 158(b) of the District of Columbia Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1527) is amended to read as follows:

“(b) SOURCE OF FUNDS; TRANSFER.—An amount not to exceed \$5,000,000 from the National Highway System funds apportioned to the District of Columbia under section 104 of title 23, United States Code, may be used for purposes of carrying out the project under subsection (a).”.

SEC. 167. The explanatory language contained in the Joint Explanatory Statement of the Committee of Conference for District of Columbia Appropriations contained in the Conference Report to accompany H.R. 4942 of the 106th Congress shall be considered to constitute a joint explanatory statement of a committee of conference for the provisions in this Act. References in this joint statement to the conference agreement mean the provisions in this Act, references to the House bill mean the House passed version of H.R. 4942, and references to the Senate bill mean the Senate passed amendment to H.R. 4942.

This Act may be cited as the “District of Columbia Appropriations Act, 2001”.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. MORAN of Virginia. Mr. Speaker, reserving the right to object, I would just like a statement from the gentleman from Oklahoma (Chairman ISTOOK) to make it clear for the record that there are no material changes to the bill as reported out by the conference in agreement with the Senate.

Mr. Speaker, I yield to the gentleman if he wants to give those assurances.

Mr. ISTOOK. Mr. Speaker, I thank the gentleman from Virginia for yielding to me.

This is identical to the conference report on the original D.C. appropriations bill for fiscal year 2001, H.R. 4942, with one technical exception, that exception is simply adding a new section, section 167 that makes the joint explanatory statement in the conference report on H.R. 4942 to apply to this new bill.

Mr. Speaker, that is the only difference, and it is just a technical one for the sake of a clear record.

Mr. MORAN of Virginia. Mr. Speaker, with that confirmation, I have no objection. I am glad to see this pass with unanimous consent of both parties.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 14, 2000.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 14, 2000 at 1:35 p.m.

That the Senate passed without amendment H.J. Res. 125

That the Senate passed without amendment H. Con. Res. 442

With best wishes, I am

Sincerely,

JEFF TRANDAH, *Clerk of the House.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution during the recess today:

H.R. 2346, to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.

H.R. 4986, to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income.

H.J. Res. 125, making further continuing appropriations for the fiscal year 2001, and for other purposes.

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH DECEMBER 4, 2000

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 14, 2000.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through December 4, 2000.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, December 4, 2000, the Speaker, majority leader and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, DECEMBER 6, 2000

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, December 6, 2000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

(Mr. METCALF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

A TRIBUTE TO THE LATE DAVID R. BROWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise this evening with deep respect, and with profound sadness in paying tribute to one of the greatest environmentalists of our time, Mr. David R. Brower, who passed away on Sunday, November 5, at his home in Berkeley, California.

Mr. Brower’s distinguished career of dedication and commitment to the preservation of our environment spanned more than fifty years.

As a young man, Dave Brower fell in love with our planet, which he called Earth Island.

He served as the executive director of the Sierra Club in 1952, and later, founded two important environmental organizations, the Friends of the Earth and the John Muir Institute for Environmental Studies.

In addition, in 1982, he founded Earth Island Institute, an organization that promotes protection and conservation of wilderness around the world.

During his lifetime, he led hard fought fights to establish numerous national parks and seashores, including Point Reyes in northern California, the Northern Cascades, and the California Redwoods.

Among these accomplishments, in the 1960's, Mr. Brower's activism was instrumental in preventing the construction of two major dams in the Grand Canyon.

He was also successful in stopping plans to build dams at the Green River in Utah that would have seriously altered the landscape of the Dinosaur National Monument.

Furthermore, Mr. Brower played a crucial role in the passage of the Wilderness Act of 1964, which preserved millions of acres of public land so that its natural conditions will remain for future generations to enjoy.

Mr. Brower's strong conviction and foresight did not come without personal sacrifice.

He took many hard stances for environmental protection that he believed would benefit humanity, sometimes against his colleagues, and many times against governmental agencies. And these sacrifices make Mr. Brower truly heroic.

The death of Mr. Brower is a great loss to our nation. I, along with Mr. Brower's immediate family, friends, admirers and supporters, feel this monumental loss.

But as we mourn his death, we also remember the legacy of hope and inspiration David left behind for us as a true leader in conservation.

His passion for preserving our planet's remaining wilderness, our national parks, and seashores is a remarkable model of how one person can mobilize people's consciousness to change and to better our lives and our world.

I cannot fully express enough gratitude for the contributions David Brower has made to our society and to the viability of our planet, but I can say that he literally changed the world for the better.

Mr. Speaker, I would like to extend my deepest condolences to the late Mr. Brower's wife Anne, his four children Kenneth, Robert, Barbara, and John, his grandchildren, his friends, and supporters throughout the world.

To Mr. Brower—May the Earth receive you with the love and compassion that you gave it, and may God Bless You.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

(Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ENJOYING SERVICE AS MEMBER OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. McCOLLUM) is recognized for 5 minutes.

Mr. McCOLLUM. Mr. Speaker, I rise today, because it is one of my last opportunities as a Member of this body to address my colleagues about whatever I might want to, and today I particularly want to say how much I have enjoyed my service as a messenger over the last 20 years. What a great honor and privilege it has been to have been a Member of this body.

I made many friends. I fought many battles on the floor of this House, and I would like to believe that my service will be left as very constructive. We had lots of things that happened in my tenure in serving the eighth district of Florida and prior to that, the fifth district; but we actually closed during that period of time nearly 40,000 cases for constituents in casework; nearly 400 high school interns came to Washington, D.C. to meet the Members of Congress, visit the House floor, attend congressional hearings and tour historic monuments, memorials, under my intern program; 422 high school students have received nominations during those years for my office to the Nation's military academies; 199 have received appointments; 15 senior interns participated in the Congressional Senior Intern Program to gain a first-hand look at how our government works and to provide valuable opinions on important issues; 8 High School pages have participated in the Congressional Page Program; 19 congressional art competitions have led to 19 works of high school art students hanging in the halls of this Congress.

I am proud of all of those. I am certainly proud of the staff work that has been done both personal staff and committee staff on my behalf and on the behalf of my constituents in the Nation over these years.

I can stand before you today and site legislative accomplishments and specifics; I am not going to do that. I look ahead more than I look back. I always have, and when one door closes another one opens. And I think that is what this Nation is about.

It is our young people that is what it is about. It is about the next generation, that is why we all serve in public life, that is why I served, that is what I am most proud of.

The contributions each of us make as we pass may be a small contribution now, but that can grow much greater later. And it is the duty, I think, of every American to participate in the electoral process and in the process of governance. Sometimes it may be in public office, sometimes it may be being no more than voting, but I hope that most young people who come forward in the near term will participate much more vigorously, getting involved in elections, being participants in their communities and community activities and in many other ways.

When they do so, I would like to believe that they will look at the next few years as pivotal years. We are the greatest free Nation in the history of the world. Our Founding Fathers gave

us a Constitution with its checks and balances that make us like no other Nation. We have opportunities for everyone. Equal opportunities, if you just take advantage of them.

We are not perfect. Nobody is, but when you look around the world, you will see what a great Nation we have and what a great government we have.

□ 1745

In our institutions, I think that better government, not bigger government should rule the day; that when decisions can be made at the local level of government, that is where they should be made: the city level, the county level, the State level, the local school boards. Only as a last resort does Washington do it and only, of course, under certain constitutional circumstances.

I think that is the guiding principle that our Founding Fathers gave us, and it is one that I hope we all will cherish into the future. I believe that, in the nearer term, to make that more meaningful for all of us, there are several things that need to be done. I have to leave that to my colleagues in the next Congress since I will not be here for that.

One of those is, of course, principled in the idea of choice. I happen to believe that choices should be maximized for individuals. The government should be not making decisions for us, especially in Washington, where we can make them for ourselves. Whether that is in the realm of education, whether that is in the realm of Medicare or Social Security or whatever it is, the more choices that we can give to people to make them themselves rather than government making those decisions, rather than the government being our parent, if you will, the better off we will all be.

That is the same with local government. I believe that we should, as a Congress and as a Nation, at the Federal level delegate responsibility back to the States and the cities and the counties and let them make those decisions with the legislation we have here rather than making all the rules up either legislatively or administratively. I am for less regulation, less rules, more openness and more opportunity for locals to make those decisions and individuals to do it.

I think it is important in that same realm that we have tax simplification. We talk a lot about tax reform. I have since been here. I certainly do not believe we ought to have a tax on capital gains at all or double taxation on dividends or a tax on earned interest. I certainly do not think that we should have an estate or death tax or marriage penalty tax. It is important to reform those.

I think it is also important to have across-the-board tax cuts where ultimately everyone makes choices and decisions rather than targeted tax cuts where the government makes the choice only if one complies with this

rule or that rule. But in the long run, the important part of tax reform is to make it simpler.

I would love to see a day, and I envision one, where every American can fill out their taxes, whatever it may be, be it income tax or sales tax or whatever, on a single sheet of paper. That is something that I would like to see. But as important as all of that is, I also believe that we have to rebuild our defenses. I believe that they have been built down way too far.

The next big challenge for this Congress, despite its differences, and it will have them, will be how do we rebuild those defenses the right way, to rebuild morale that is at its lowest point in years and years.

I urge my colleagues to do so, and I wish them well in making those decisions for our Nation's future.

PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, yesterday, November 13, I was unavoidably detained in my district and missed rollcall vote numbers 595 and 596.

I would like the RECORD to reflect that, had I been present, I would have voted no on both rollcall vote 595 and 596.

WHO WILL BECOME THE NEXT PRESIDENT?

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. SHERMAN) is recognized for 60 minutes as the designee of the minority leader.

Mr. SHERMAN. Mr. Speaker, I know that some of my colleagues have had to rush back to their office. One or two of them will hopefully join me here if they are of like mind and join in this discussion of what is the issue that is gripping America today; and that is the issue of who will become the next President, but more important, whether we can continue to have confidence in the democratic institutions of this country.

Now, let me deal with some of the basics first. The election last Tuesday produced a very clear winner of the popular vote. These were the results that were reported. My colleagues can read the numbers here. But GORE received almost a quarter of a million votes more than Mr. Bush. Now, I say a quarter million, because I know that the vast majority of ballots that have yet to be counted even today are absentee ballots from the State of California.

Mr. Speaker, I am from California. It is my business to know how absentee ballots and particularly late absentee ballots are likely to come in. I am confident that when those California votes are tabulated, not only will Mr. GORE have a lead of over 200,000, but a lead of 250,000.

But that is the popular vote, and we are a Nation dedicated to the rule of

law. Our law calls for the electoral college to operate. But for that college to operate, there has to be a fair count and a fair vote in each State. That is why we must turn our eyes to the State of Florida where we will see a genuine contest.

One side in that contest is trying to seize power through political power, chiefly through the power of the governorship of Florida and the Secretary of State of the State of Florida, two elected officials, and is trying to malign the rule of law or rather just malign the court system, which is pretty much the same thing.

See, one can be a football coach who says I believe that football should be played by the rules, but first we have got to kick all the referees off the field. We all have been angry at a call by a referee. I have been in stadiums where people yell "kill the ref." I have never quite joined in such a statement. But imagine what football would be like if there were no referees or if there was an attempt to go to someone paid by one of the teams and have them arbitrate the disputes.

Now, our courts are not perfect. But they are far less political, let me tell my colleagues, than those of us who are elected officials.

So I would hope that the courts of Florida would ultimately and quickly resolve the issues that are before us. Now, the main issue before us is how the votes in the counties of Florida are going to be counted. But before we get there, I would like to focus a little bit on the ballot in Palm Beach County, the famous butterfly ballot.

Here is a picture of it. We have all seen it. It is confusing; 19,000 people double punched on this ballot. Some of them had voted for Buchanan by mistake and thought they could correct it by punching a hole for GORE. Some of them saw two holes to the right of the Democratic candidate and thought that, if they wanted to vote for GORE and LIEBERMAN, they needed to punch both holes to the right. Some were simply confused by an array of arrows pointing in different directions, left and right to a row of holes.

Now, it is said that the voters could have known about this ballot by looking at their sample ballot. Well, without the holes, this ballot tells one nothing. A sample ballot comes in, the names all seem to be there, the people glance at it, and decide who to vote for and then show up on election day. To say that looking at the ballot without the holes is the same as looking at it with the holes is simply absurd.

But it is not enough that the ballot is confusing. In fact, I believe that there is a Florida court decision that says that, if a ballot is merely confusing, the courts will not provide redress to those who were confused.

We are a Nation of the rule of law. But the Florida courts were very clear when the Supreme Court of the State of Florida ruled 2 years ago, in Beckstrom versus Volusia County Can-

vassing Board, that is Volusia County Canvassing Board, that where there is not only confusion, as there clearly was in this case, but also noncompliance with statutory procedures.

Then the court must provide redress, must adjust the election or allow for a new election if there is reasonable doubt as to whether the certified election expressed the will of voters and when that doubt extends to who won the election.

Well, there are more people in the cloakroom some of the times than the number of ballots that separates Mr. Bush from Mr. GORE in the vote in Florida. There is no doubt that any confusion in Palm Beach County could well have affected the result of the Presidency of the United States. There is no doubt that the ballot was confusing.

Many on the day of the election before they realized how important it would turn out to be started complaining about that confusion. There is no doubt that this ballot was in violation of Florida law, not just that it was confusing, not just a vague law of Florida that the ballot should be clear and unconfusing, but two very specific statutes.

The first Florida statute that is violated by this ballot is the one that requires that the names be on the left and the holes be on the right for every candidate for public office. Here, as we see, some of the names are on the left and the holes are on the right and sometimes the name is on the right and the hole is on the left.

Now when one looks at that Florida statute, just reading through a statute book, its wisdom is not all that apparent. The reason for complying with the law may not be all that clear. But it is by violating that law that the officials in Palm Beach County created the ballot that now has the whole world watching Florida.

The second statute in Florida also requires that the first ranking on the ballot, the first listing and the first hole goes to the party that won the last gubernatorial election in Florida. That is the Republican Party. My colleagues will notice the Republican Party on this butterfly ballot has the first listing and the first hole.

The second listing and the second hole is supposed to go to the party that came in second in the last gubernatorial election. That is the Democratic Party. As my colleagues can see, well, the Democratic Party does not have the second hole; the Democratic Party has the third hole. Whether one views it as the second listing or the third listing depends upon whether one has a tendency to go from left then right or left column and then right column. But one thing is very clear, this ballot does not award the second hole to the Democratic Party.

Every voter in Florida had the right to a ballot with the names on the left and the holes on the right. Every voter in Florida had a right if they wanted to

vote for the Republican Party to punch the first hole; and if one wanted to vote for the Democratic Party for any office, punch the second hole.

Yet on this ballot, the second hole is for Pat Buchanan. That is why Pat Buchanan himself says that there are quite a number of votes, hundreds or perhaps thousands in Palm Beach County alone, that were registered as being for him but were not people who intended to vote for him.

So we are told that maybe there were not that many people confused. Well, the number of people voting for Pat Buchanan in this county and in this particular precinct exceeded any imaginable count for Pat Buchanan, even imaginable by him. But there were not only the Pat Buchanan ballots, but also those that were double-punched.

Now, in every election, there are people who just skip an office, even the Presidency. They go in, they say I do not like Nader, I do not like Bush, I do not know Gore, and I do not know who the Workers World Party is; and I am not going to vote for any of them, and they skip it. I am not talking about people who completely skip the Presidency. I am talking about those who voted twice due to a confusing ballot.

Now, in the 1996 election, far fewer people voted twice. James Baker, spokesman for the Bush campaign has tried to argue that there were 14,000 people who voted twice in Palm Beach County 4 years ago. That is not just fuzzy math, that is false math. See, that 14,000 figure is the sum of everybody in 1996 who just skipped the Presidential race, did not like Dole, did not like Clinton, just skipped it, and those who double-punched.

□ 1800

In fact, the number who double-punched last election was well less than half the number who double-punched in this election. This ballot was not only confusing, it led to confusion.

So what do we do about it? That needs to be determined, and it needs to be determined in the courts of Florida. But when faced with a similar circumstance, the courts have either ordered a new election or, and I do not recommend this approach at all, but Florida courts have done it, they have just statistically, quote, "corrected the ballot count." I do not think that is the way for the courts of Florida to go in something as important as the Presidency.

So I do not know whether the people of Palm Beach County will have their right to vote trampled upon by an illegal, as well as confusing, ballot and a refusal of the Florida courts to grant a revote. I know that that issue will not be reached for a while. But before we allow our impatience with this process to govern its outcome, let us remember how many Americans have died for the right to vote, not just in the suffragette movement, not just in the Civil Rights movement; but in every war

America fought, people fought and died for our democracy. We can wait another week, even another 2 weeks, even 3 weeks.

In fact, there is no particular rush at all. Mr. Speaker, on January 6 at 1 p.m. in this very room the electoral vote tallies from each of the 50 States and the District of Columbia will be presented at that desk, and they will be added up and tallied by the Senate and the House of Representatives assembled in this room. On January 6. And if it takes Florida till about then to be absolutely certain how its electoral college votes should be cast, in a way that reflects the majority of voters, what is more important, our own impatience or our dedication to honor those who died to give us and to preserve for us a democracy?

Now, in talking about a revote, which might be necessary in Palm Beach, I am jumping the gun a little bit. None of the candidates for President has called for such a revote because the focus now is just to accurately count the votes in the 67 counties of Florida. And here there has been an attempt by one politically elected partisan officeholder to thwart an accurate count. That worries me. I am talking about Katherine Harris, Secretary of State of Florida, who is also co-chair of the Bush campaign in Florida. Unfortunately, she seems to be wearing her hat as co-chair of a campaign rather than as chief election officer, because I will review all of the obstacles that have been placed by the office of the Florida Secretary of State in the way of an accurate vote of Florida's counties.

I want to quote Ms. Harris on one point. Ms. Harris is quoted as saying just a few days ago, and I am reading from the Palm Beach Post, November 14, that she would be passionately interested in a Federal post in foreign affairs or the arts if the Governor of Texas wins. To that end, according to this newspaper, she not only campaigned for Bush in Florida but had gone to New Hampshire, where the associated press reports that she had been part of the "Freezin' For a Reason Campaign" of Floridians flying to New Hampshire to campaign for Mr. Bush.

Now, I think it is just fine to campaign for someone to be President. I did. But my fear is that her self-confessed and announced passion for a position in the Bush administration is clouding her ability to carry out the prime responsibility of a State's chief election officer, and that is the accurate and fair conduct of elections. Passion for winning a post in the Federal Government should not control the decision-making process, but I fear it has.

It is pretty well acknowledged that a manual vote is the right way to do a recount. Let me put to rest some of the mistaken beliefs. First, it is said, oh, this is the second recount, the third recount, the tenth recount. Not true. Under Florida law, and not at the re-

quest of the Gore campaign or anybody associated with it, the counties of Florida did do a manual recount. That is up to them. The Gore campaign requested only one recount in four of the 67 counties. In the other counties, they said, fine, go ahead, we will not even request a recount. So the Gore campaign was in a position to request a recount in every county, but it requested only four.

The Bush campaign did not request a recount in any of those counties. But that is not because, as they claim, they are so dedicated to the machinery being more accurate, because many of us in this hall have been involved in elections and recounts and close elections involving punched cards and we all know, as the Governor of Texas knows, that the most accurate way to do a recount of a punched card election system is by hand, with people from both parties examining the ballots.

Now, why is that true? We live in an age where machines are praised and people are chided. But in this case, the invention of man, the machine, is not nearly as great as the creation of God. First of all, we are dealing with 1950s technology here. This is no Internet double-checked modem. This is a punch card. This is 1950s technology. And these machines we are talking about, even if one votes properly, doing everything according to the instructions, punch the hole hard and straight through the card, a chad can be left on that card, sometimes partially attached, sometimes hanging off the back, sometimes hanging off the back and then, in handling it, it swings back, so that the machine cannot determine.

As a matter of fact, the machine is erratic. Take a ballot that has been just slightly dimpled, run it through the machine, and sometimes it counts it, sometimes it does not. Take a ballot where there is a swinging door chad on the back. Sometimes the machine counts the ballot, sometimes not.

James Baker has cried out for standards. Of course, the counties of Florida have their standards, publish their standards, train their employees by the standards, do that training in front of a cable television camera, for those who are glued to their sets, and we know what those standards are. In fact, we can argue about those standards. I believe the Gore campaign argues in favor of counting a dimpled ballot and the people in Palm Beach, Florida may not be counting a dimpled ballot, that is to say one where there is an impression but no perforation. Well, we should know what the standards are, we ought to try to agree on those standards, and we ought to make sure that every challenged ballot is counted according to standards.

What standards does the machine have? Sometimes dimpled ballot, yes; sometimes not. Sometimes swinging door chad; sometimes not. The machine is not talking. The engineers who

made that machine are deep into retirement, and they are not talking either. Counting these cards by machine may be fast, but it is not the most accurate system.

Now, it is not enough for me to explain this, because the Governor of Texas already made his decision. In 1997, he signed into law a Texas statute, he signed it with his own pen, a new clearer statute for the State of Texas. What does it say? A manual recount shall be conducted in preference to an electronic recount. What does that mean? It means in Texas, if there are two candidates and both want a recount, the candidate who wants a machine recount only has to post a bond from which the fee may be taken, he may not get back his bond, his money, of \$18 a precinct. Another candidate, more interested in accuracy, has to pay \$30 a precinct as his or her bond.

And what if two candidates both want a recount? The candidate who wants a manual recount is preferred; that is to say, not necessarily to win the election, but the request for a manual recount has preference under the law of the State of Texas. Why? Because George W. Bush, when he signed this law, knew full well that a manual recount, while it may be a little more expensive, and by God I think the Presidency is worth \$30 a precinct, while a manual recount may be a little more expensive and time consuming, it has preference because it is more accurate.

So why does James Baker tell us to use machines? He tells us that Texas has standards and Florida does not. Well, first, Florida does have standards. They simply vary from county to county. But the Palm Beach standards are as good as the Texas standards, the Broward standards are as good as the Texas standards. But if James Baker was not trying to obstruct an accurate recount, if he was hoping to have the votes counted accurately, he would not be blocking a manual recount, he would be aiding it.

And how could he aid it? Let us read, please show us, because no one has seen them, those supposedly in existence Texas standards for dealing with these punch cards, which they also use in Texas. Do they count dimpled ballots in Texas? I do not know, but I would like to know. And frankly, if James Baker, if George W. Bush can provide us with better standards, let us see them. But they have no interest in improving the accuracy of a manual count. They want to block a manual count.

They refer to these machines as precision machines. These are machines that jam if the ballot is bent a little bit. The card is bent a little bit. They deride human beings as in error, even teams of three human beings working carefully with the TV cameras. They deride that as being faulty and praise a machine that cannot read a bent ballot, that would disqualify and disenfranchise one of our senior citizens who fought on Normandy or Iwo Jima

for the right of America to have a democracy, for his right and our right to vote, and his vote is going to be ignored by this supposed precision machine because, well, the ballot has a crease in it.

I cannot believe that the Governor of Texas would want to dishonor the oval office by sitting there only because creased ballots are not counted. I cannot imagine that someone would want to be President in denigration of the votes of a majority of the States with a majority of the electoral college votes. I understand he wants to be President, and it is his right to be President if he does not have a majority of the popular vote nationwide. But if he does not have a majority in States representing a majority of the electoral college, then he dishonors the Presidency by demanding it; and he places his own desire for power above patriotism when he does everything possible to get a woman who is passionately dedicated to holding office in his administration to deny the most accurate vote count.

□ 1815

Now, Mr. Speaker, I do want to deal with some of the other more extraneous issues that have come up, but first I want to deal with one more aspect of the argument as to what is the best type of count, the most accurate count. You see, Mr. Speaker, we serve here in the United States Congress, and four Republican candidates, let me repeat that, four Republican candidates for Congress have demanded and obtained manual recounts. They were Republicans, they wanted to sit in these chairs, and they got manual recounts.

By God, if filling one of these chairs is worthy of a manual recount, then certainly filling the chair in the Oval Office is worthy of a manual recount. You see, when JOHN ENSIGN wanted to sit in the United States Senate in 1998, we gave him a manual recount, or the State of Nevada gave him a manual recount. Bob Dornan got more than one manual recount. Peter Torkildsen, in 1996, demanded and got a manual recount. And, finally, Rick McIntyre in 1994, Republican candidate, got a manual recount, and throughout that process his cause was passionately advocated by then Congressman Dick Cheney. So Dick Cheney thinks that a manual recount is appropriate in filling a seat in this hall. George Bush signs a law in his own State saying that a manual recount has preference whether you are filling the governorship of Texas or the lowest county clerk in the smallest county, lowest or smallest county clerk in the smallest county. But somehow obstacles are placed. But I think ultimately these obstacles will be ineffective because ultimately the side of democracy will prevail, and the same divine providence that has given us a democracy for these 200 years and many more will make sure that we have democracy in this election.

Now, first they went to Federal court. They attacked and vilified courts. They have particularly attacked and vilified the Federal courts, those on the Republican side, often from this Chamber. They ran to Federal court, not for the purpose of seeking a more accurate count but for the purpose of demanding a less accurate count. And the Federal court turned them down, and they turned around and they appealed to the 11th Circuit, a very Republican, very conservative Federal court, and I am confident that they will be turned down there as well. Because not only should a court not interfere to provide for a less accurate voting system but certainly the Federal courts should not interfere in what under our Constitution is very clearly a State matter.

Then they went to the Secretary of State and demanded a 5 p.m. deadline. Why? To make sure that in Volusia County they had to stay up all night to do the manual recount and make the deadline so then James Baker could go on TV and say, "These human beings, you can't trust them, they were tired." Why were they tired? Because your person is imposing an unreasonable recount deadline, particularly unreasonable given the fact that Florida will not finish counting the absentee ballots from overseas until 5 p.m. Friday. So there is no speed-up here of when Florida will finish its vote tally. The sole purpose is not speed. The sole purpose is inaccuracy. And they hope to achieve it.

So then a court in Florida took a look at it and said, okay, all the counties can report their results by 5 p.m. today, and then they can go back and do a manual recount should they desire, and if they are dedicated to democracy they will, and then report that as a supplemental report. It will then be up to Ms. Harris to decide whether her passion for a Federal office exceeds her dedication to an accurate vote count, because then she will be confronted with whether to ignore this report or whether to record it. But if she arbitrarily and in passion for Federal office decides to ignore an accurate count, I am confident that the courts of Florida will order her to do the right thing. This election is too important to be decided by Ms. Harris' interest in a position in the arts or in foreign affairs in the Federal Government.

There is one other point I want to make, and, that is, we are told that we should ignore the problems in Palm Beach County because the press said some things they should not have said at around 20 minutes before the polls closed in the Florida panhandle. Keep in mind, a decade or two ago, the press would routinely report all through the day their exit polls and they would call States in the 1970s and the 1980s, they would call them just as soon as they could, whether the polls had closed in part of a State or none of the State or all of the State.

I am not prepared to throw out all the elections in the 1970s and 1980s just because the press did not have the good ethics which they have tried unsuccessfully to adopt for this election. But if we are going to start equating illegal ballots on the one hand to false press reports on the other, I would ask everyone to just make a mental checklist of how many false press reports we have had prior to the election, after the election. Are we going to disqualify the election just because at least to my way of thinking the press misrepresented the economic effect of Bush's Social Security plan? The press has a constitutional right under the first amendment to say what it wants, when it wants, where it wants. And the fact that they violated their own internal rules, adopted by some of them and not by others apparently, is no reason to throw out an election any more than the many times when the press violated its own rules of ethics by shifting a little bit this way or a little bit that way in a news report that should have been straight down the middle.

I see that I have been joined by the gentlewoman from Texas. Before I yield to her, I will ask how much time I have remaining.

The SPEAKER pro tempore (Mr. VITTER). The gentleman has 26 minutes remaining.

Mr. SHERMAN. With that, I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman from California for yielding. He has always been so articulate on issues dealing with taxation, and I am delighted that he has begun an explanation to the American people that is really, I believe, a key to understanding where we are on this day. This is Tuesday. It is now 7 days past the November 7 election that was held. I have several points that I would like to make clear. First of all, let us all acknowledge that we hold dear the right to elect the single candidate or the single person that represents all of the people of the United States. The House of Representatives is a people's House. We represent our respective congressional districts. The United States Senate has two Senators per State. But when it comes to the person that represents all Americans, it is in fact the President of the United States. Secondly, we are a country that is guided by laws. We are governed by law, and we accept the governance of law as men and women under the laws and the flag of the United States of America. So we are not a country so much run by people, and when I say that, run by the whims that one group may have over another. We have laws that may govern decisions that are made. And the people concede to the laws, and the people express their voices about the laws or political choices through the vote.

Now, in a newspaper article that was dated on Thursday, November 9, we find that 105 million voters set a record turnout. Some 76 percent of the reg-

istered voters went to the polls. Interestingly enough, Vice President GORE is now at this juncture the leader in the popular vote and, of course, the electoral count, even though we realize that Florida is still in play. Now, I respect all of the local officials that we have come to know in Florida, the local canvassing committees, the superintendent of elections. Each and every one of them has made their best effort. And like my colleague from California, I acknowledge that there were counts or calls being made before the eastern time zone of Florida, the panhandle area, was able to vote. But we know that they voted. Hopefully they voted. And I agree that the kind of calling of numbers should be considered when we do not want to disenfranchise voters. But might I say that the calling, the original call for GORE was based upon exit polling. People went out of the polls thinking, particularly in Palm Beach County, that they had voted for the Vice President.

Now, I went to Nashville, obviously after we had concluded our work in Texas, and let me congratulate the elected officials in Texas and all the workers in Texas because we certainly worked very hard and we worked in agreement and disagreement, meaning that there were those who went and voted strongly for Governor Bush and those who voted for Vice President GORE, and we accept our differences and realize that this is democracy.

I went on to Nashville after they had called Florida for the Vice President. Let me make it perfectly clear, the Vice President was in no way eager to delay or to not respect the fact that this may have been a win for the Governor of the State of Texas. It was those individuals who were keeping watch that encouraged the Vice President to hold his decision to move forward with a concession speech because all had not been counted. This is not an instance where one man is grabbing power to create disarray in this country. And it is important to note that there is no constitutional crisis. In fact, the transfer of power does not occur until January 20, 2001. In fact, December 18 is more than 3 to 4 weeks away.

So what do we need to do in this period that we have? We need to allow Volusia County, Palm Beach County, Miami-Dade County I understand is proceeding with a recount, and I believe Broward County is reconsidering. We need to have the kind of manual recount that the 1997 law that Governor Bush signed into law for the State of Texas brings about. And I think the decision that Judge Lewis rendered today should be emphasized, and that is that the court held that the Secretary of State cannot arbitrarily declare that she will not permit votes to be counted that are received after 5 p.m. but that she must receive and be prepared to consider vote counts that are reported after that time. That was the principal objective of all of those who were argu-

ing that the Secretary of State's decision was arbitrary in the first place not to allow the recount to occur.

This is not a decision from the top down. This is a decision or a desire from the bottom up. The people of Palm Beach County and other counties desire to have a manual recount. Yes, it was asked for officially within the time frame by the Gore camp but rightfully so in light of those who had argued that they were sorely confused when they went in and saw a ballot that had the areas to poke in contradiction to the memo that was sent out that all of those holes that should be pointed should have been to the right as opposed to some to the left.

So what we have at hand is an opportunity to have the Presidency earned and not handed to one candidate over another. You can be assured that the history of this Nation, some 400 years strong, will be a history that will warrant and will bring about a unified Nation that will rally around the ultimate winner of this Presidential election.

Why are we fearful? Why are we frightened? Why are we hesitant to know the actual winner? Why do we disallow the State of Florida, which is in play, and someone has said to the distinguished gentleman from California, well, we have got troubles in Iowa and troubles in Wisconsin and troubles in Illinois and troubles in New Mexico. If the people speak in those respective States, we will listen. But in the State of Florida, Florida is the key State that deals with whether or not either of the gentlemen will be the next President of the United States. That is the 25 electoral votes that are now in question. And it is the people of that State who have argued that they were confused and that a series of violations thwarted their being able to fully and justly vote their conscience.

□ 1830

If you have people coming out of the polls saying, I thought I had voted for Gore, but now I believe I voted for someone else, and this State is a State that will put whatever candidate it is over the top to make that person the President of all of the Nation, with 105 million voters of all walks of life, and the controversy in Florida being representative of people from all walks of life, this is not a black or white issue, or Hispanic or white issue, or any kind of issue, other than an American issue and a voters issue.

I recall that in some of our early histories, we were not all counted as voters. Non-property owners were not counted as voters. African Americans in the early census were three-fifths of a person and certainly not counted as a voter. Women were not allowed to vote.

We have a new America today, and I believe that this is a rush to judgment, and I hope we present our case where it is not being personalized. It may be that I am a Democrat and someone else is a Republican, but I can assure those

who might listen that if these issues were in the forefront of the Bush camp, they would be pursued as vigorously by their constituency base as others.

I also note that I do not think any of us, I would say to the gentleman from California (Mr. SHERMAN), I do not think any of us have rejected any call for recounts by Governor Bush. I have not heard anyone say that they did not want it or we would stand in the way of it. I think whatever the rules are of the State of Florida, he has every right to call for such.

Mr. SHERMAN. If I can interject here, the Governor of Texas had, for most counties, 72 hours. If he was dedicated to an accurate count, he could have in all the counties or some of the counties, he could have asked for a manual recount. He knew a manual recount was the more accurate way to do it. He signed the law for the State of Texas, your State, that says that that is the preferred method of a recount.

But they were so dedicated to using political push to try to shame anybody into asking, to try to use this political spin to prevent an accurate count, that they themselves allowed the deadline to go by and did not ask for a recount by hand in any of the counties of Florida. Then they complain that right now there are only four counties of Florida planning to do a manual recount. It is as a direct result of their decision, which they had plenty of time to consider, not to ask for a recount by hand.

But I would say that neither you nor I nor the Vice President have said that we would oppose a manual recount in any county in Florida, notwithstanding the point that, on the one hand, Governor Bush wants to have his cake by being able to pound the table and try to use political spin to prevent an accurate recount; and then he might, we hope, change his mind and ask for an accurate recount in some of the counties that he is concerned with. I do not think I would oppose it, and I do not think you would oppose it.

Ms. JACKSON-LEE of Texas. If I might do so in order to close on the comment I made, and I thank the gentleman for his kindness, in fact it has been brought to my attention that Mr. Baker had indicated that hand counts have only occurred in Democratic precincts. It has come to my attention that seven counties have done some form of hand counts, and Bush has carried six of those counties. They did that on their own.

Mr. SHERMAN. Exactly. In Seminole County, for example, there was a hand recount that provided Bush with an additional 90-some votes. He is claiming the Presidency; he wants it awarded to him immediately on the basis of a lead of about 300 votes. Over 100 of those come from the hand count in just one county where he can say he did not ask for it, but he wants the votes from it.

Ms. JACKSON-LEE of Texas. It occurred. I think that point is very important. Of course, when you get sort of global news reporting, those finite

points do not get offered because it appears, of course, that the voices that speak are only partisan.

As a member of the Committee on the Judiciary, I can assure you that, obviously, we may be looking at these issues, these sort of issues that have been brought to our attention maybe for months and months to come. That certainly will not be the time frame that the Presidency will be extended or the question of who will be President, but I just do not want us to give short shrift to some of the important issues that have been raised.

I do want to note that a large number of Voting Rights Act violations have been cited that will have to be addressed. That is why we have the Voting Rights Act of 1965. The lack of bilingual individuals at the poll, the fact that minority voters were being stopped in certain polling places, first-time voters who sent in voter registration forms prior to the State's deadline for registration were denied the right to vote because their registration forms had not been processed, not their fault. Citizens properly registered were denied to vote because election officials could not find their names. These are very large issues in a Presidential election.

I am looking at several pieces of legislation, one to study the impact of the electoral college. I know there is existing legislation to eliminate it. I do not know if we can make these immediate judgment calls right now; but, again, let me emphasize that the Vice President is the beneficiary of the votes of large numbers of Americans. 105 million came out to vote. So his efforts, I would hope, would be more focused or be perceived to be focused, as I believe they are, on getting an accurate and fair count for a position as important as the Presidency of the United States.

With the Voter Rights Act violations in play, with the whole idea of the people themselves wanting to have a recount, Palm Beach County in particular, with 19,000 ballots being thrown out in a county smaller than my county in Harris County, which only had 6,000. We had 995,000 voters, 6,000 discarded ballots as I understand it, and in that county in Palm Beach, 19,000, with people saying I thought I had voted for Mr. Gore, and as well with the ballot irregularity that I think my colleague will speak about in the continuation of this discussion, I can only say that what we should be doing is applauding what is happening in the State of Florida to the extent that there is such diligence to ensure that there is a fair and accurate count.

I would ask the Secretary of State, duly obligated to the people of the State of Florida, to lay aside any desires for partisanship that may be viewed necessary at this time, and to allow the people that she represents to carry forth with the manual recount that is now going on.

I would also ask her discretion in bearing with these unpaid, I do not

know how many of them are paid, but I know in my community they are volunteers, that if by chance Friday night they are not finished and Saturday evening they are not finished, that there be some opportunity for this to be followed through.

I thank the gentleman very much for allowing me the opportunity to join him in what I think should be an explanation that is a sincere explanation for the betterment of this country.

Mr. SHERMAN. I thank the gentlewoman. I appreciate the comments of the gentlewoman from Texas and the wisdom she brings us from her service on the Committee on the Judiciary.

I want to expand on one thing the gentlewoman pointed out, and that is the perception that someone who happens to want an appointment in the Bush administration, and says so to the press, and who chairs his campaign in Florida, would be making these decisions. The ultimate decision should be made by the courts.

Now, they are not perfect either; but I have spent the last several years in partisan politics, and to leave this in the hands of a partisan politician is a big mistake. Instead, the courts of the State of Florida should carefully review the discretion of the Secretary of State and make sure that she does not act in a capricious or arbitrary manner.

Now, I want to refocus our attention on the ballot in Palm Beach County and remind the House that in 1998 the Florida Supreme Court ruled in Beckstrom versus Volusia County Canvassing Board that if the court finds substantial noncompliance with statutory election procedures and makes a factual determination that a reasonable doubt exists as to whether a certified election expresses the will of the voters, then the court is to void the contested election, even in the absence of fraud or intentional wrongdoing.

I do not allege any fraud or intentional wrongdoing in Palm Beach, Florida, but the court decision of the Supreme Court of Florida is clear: substantial noncompliance with the statutory election procedures. This ballot violates those two Florida statutes, for example, the one that requires the name on the left and the hole to be on the right.

But the real confusion caused by this ballot became apparent on election day. The Washington Post reported last Saturday that by mid-morning of election day, voters were calling county commissioners, State legislators and other elected officials to complain about the confusing butterfly ballot and request that something be done. By mid-afternoon, local radio talk shows were bombarded with calls by people complaining about the ballot. Then a hastily written memo late in the afternoon was distributed from the county supervisor of elections to the various polling places, but they arrived after the vast majority of voters had already voted.

Those who want to say that the complaints about this ballot began only when the pivotal nature of the vote in Palm Beach County was apparent to the world are wrong. The protest began on election morning, when the first voters left the polls confused by this ballot, this illegal ballot.

Now, for example, you had one individual, Kurt Wise, who is president of the United Civic Organization at the Century Village Retirement Community, who said elderly voters confusion with the butterfly ballot was brought to his attention. People were crying. They were coming to us asking questions. The ballot form was lousy. They did not even know who they had voted for.

That is the report of the Washington Post from last Saturday. Tears the very morning of the election, not the morning after.

Then when some elderly voters became aware that the ballot had caused them to make a mistake, they were not given a second ballot, as is their right under Florida law if they turn in their damaged ballot. Bernard Holtzer, a retirement community inhabitant, said that after he unintentionally voted for Pat Buchanan, and after looking at this ballot you can see how he would make that mistake, a clerk refused his request for a second ballot. "I told the clerk I made a boo-boo and that I wanted a new ballot, and she told me there was nothing I could do about it." That was the New York Times, reporting last Saturday.

Then there were the poll workers who were told not to help voters with the problem, or any problem. They were under strict instructions to turn away voters who came to them with questions. Louise Austin, a precinct worker in Bolston Beach, said after getting beseeched by questions, she and other workers turned the voters away who were seeking assistance. "People were coming up to me, and I had to follow the directive, do not help anyone, do not talk to anyone." That is the report of the New York Times from last Saturday.

So we see that there were a lot of problems in Palm Beach; a confusing ballot, a ballot in violation of Florida statute, and a Florida Supreme Court decision from 2 years ago that makes it clear that, under these circumstances, a new vote in Palm Beach is called for.

But before we get to whether there is a new vote in Palm Beach, we have to get an accurate count of the votes cast on election day, and that is why I am so disappointed and saddened that the Governor of Texas is trying so hard to prevent an accurate count.

Again, let me turn to the statute he signed into law in Texas. A manual recount shall be conducted in preference to an electronic recount. When confronted by this, James Baker had to stop talking about precision machines, because the machines in Florida and those in Texas are identical, and in Texas Governor Bush signed the law

that said the human being outranks the machine.

He instead had to talk about standards. He has not shown us the standards in Texas; but what is worse, he has not suggested particular standards to any county in Florida. If James Baker has good standards, if George W. Bush has good standards, if somewhere in the deep bowels of the bureaucracy of Texas there are standards that could be helpful in providing the best possible manual recount, we ought to see them.

Instead, we are told that the machines are better than the human being. A machine that would take the ballot of a veteran of World War II and disenfranchise that veteran because there was a crease in the ballot, that is not a machine that should determine the Presidency of the United States.

□ 1845

So to sum up, Mr. Speaker, we have a misleading ballot in one county that was illegal and under Florida law should lead to a new election in that county. We have a recount that should ultimately, under the laws of the State of Florida, lead to being the tally of manual recounts in the 40 counties in which those manual recounts were duly applied for, and if Mr. Bush wants to announce to the world that he is suddenly in favor of manual recounts, then I do not see anyone who would oppose him if he tried to get a manual recount in some of those other counties. I would point out, though, that I think James Baker would have a tough time being his spokesperson on that issue.

Speaking of Mr. Baker's acting as spokesperson, there is one small aspect of this I really want to focus on, and that is the tendency of those on the Bush side to insult the parents of the campaign chairman on the Gore side. We have many heated debates here in the House, but I have never insulted the father of any Member, and I never thought that even if the father of a Member of this House had done something erroneous or wrong, that that would be a reason to discard and discount what that Member had to say. So why is it that James Baker finds it necessary to insult Bill Daley by insulting his father, as if insulting a man's father proves the rightness of one's case. If the best debater they have, James Baker, has nothing to say but "so is your old man", then they have run out of things to say on the Republican side.

With that, Mr. Speaker, I am hopeful that democracy will prevail in this country.

OMISSION FROM THE CONGRESSIONAL RECORD OF FRIDAY, NOVEMBER 3, 2000

THE FOLLOWING RESOLUTIONS APPROVED BY THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE WERE INADVERTENTLY OMITTED

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, October 5, 2000.

Hon. J. DENNIS HASTERT,

Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER HASTERT: On Wednesday, September 27, 2000, the committee on Transportation and Infrastructure, pursuant to 40 U.S.C. §606, approved twenty-two resolutions concerning GSA's FY 2001 Capital Investment Program.

Please find enclosed copies of these resolutions.

With warm regards, I remain

Sincerely,

BUD SHUSTER,
Chairman.

Enclosures.

COMMITTEE RESOLUTION: AMENDMENT—UNITED STATES COURTHOUSE, LAREDO, TEXAS

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, that pursuant to Section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized for the construction of a 147,196 gross square foot United States courthouse, including 34 interior parking spaces, located in Laredo, Texas, at an additional construction cost of \$9,000,000, for an estimated construction cost of \$34,372,000 for a combined total cost of \$45,372,000, a modified prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolution dated February 5, 1992, which authorized appropriations in the amount of \$20,390,000 for site acquisition and construction; Committee resolution dated May 13, 1993, which authorized appropriations in the amount of \$3,793,000 for site acquisition and design; Committee resolution dated May 17, 1994, which authorized appropriations in the amount of \$24,341,000 for management and inspection costs, and the estimated construction costs; and Committee resolution dated July 23, 1998 which authorized appropriations for additional site costs of \$500,000, additional management and inspection costs of \$2,233,000 and an estimated construction cost of \$25,372,000.

Provided, That the construction of this project does not exceed construction benchmarks as established by the General Services Administration.

COMMITTEE RESOLUTION: LEASE—INTERNAL REVENUE SERVICE, FRESNO, CA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 531,976 rentable square feet of space for the Internal Revenue Service currently located at 5045 E. Butler, Fresno, CA, at a proposed total annual cost of \$9,841,556 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL EMERGENCY MANAGEMENT AGENCY, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 339,247 rentable square feet of space and 12 parking spaces for the Federal Emergency Management Agency, currently located at 500 C Street SW, Washington, D.C. at a proposed total annual cost of \$14,248,374 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease. The General Services Administration is authorized to enter into an interim lease, pending award of a lease authorized by this resolution, provided that the term of any such interim lease may not exceed 8 years in length, inclusive of options.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF JUSTICE, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 113,525 rentable square feet of space for The Department of Justice, currently located at 901 E Street, NW, Washington, D.C. at a proposed total annual cost of \$4,768,050 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF VETERANS ADMINISTRATION, DEPARTMENT OF JUSTICE, GENERAL SERVICES ADMINISTRATION, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, U.S.-JAPAN FRIENDSHIP COMMISSION, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 151,367 rentable square feet of space and 10 indoor parking spaces for the Veterans Administration, Department of Justice, General Services Administration, Bureau of Alcohol, Tobacco and Firearms, and the U.S.-Japan Friendship Commission, currently located at 1120 Vermont Avenue, Washington D.C. at a proposed total annual cost of \$6,357,414 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Rep-

resentatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 95,569 rentable square feet of space for the Department of Housing and Urban Development, currently located at 470/490 L'Enfant Plaza, SW, Washington D.C. at a proposed total annual cost of \$4,013,898 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—SOCIAL SECURITY ADMINISTRATION, WOODLAWN, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 824,563 rentable square feet of space and 2,132 surface parking spaces for the Social Security Administration, currently located at 1500 Woodlawn Drive, Woodlawn, Maryland at a proposed total annual cost of \$14,347,396 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF HEALTH AND HUMAN SERVICES, ROCKVILLE, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 143,494 rentable square feet of space and seven parking spaces for the Department of Health and Human Services, currently located at 6010 Executive Blvd and 2101 E. Jefferson, Rockville, Maryland at a proposed total annual cost of \$4,161,326 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—IMMIGRATION AND NATURALIZATION SERVICE, GARDEN CITY, NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 86,250 rentable square feet of space and 625 outdoor parking spaces for the Immigration and Naturalization Service currently located at 711 Stewart Avenue, Garden City, NY, at a proposed total annual cost of \$3,536,250 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all

tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE AMENDMENT—INTERNAL REVENUE SERVICE, PHILADELPHIA, PA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 452,262 rentable square feet of space for the Internal Revenue Service currently located at 11601 Roosevelt Blvd, Philadelphia, Pennsylvania at a proposed total annual cost of \$5,776,341 for a lease term of ten years, a prospectus for which is attached to and included in this resolution. This resolution amends the Committee resolution of November 10, 1999, which authorized a lease for up to 452,262 rentable square feet of space at an estimated maximum annual cost of \$6,726,312 for five years.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF DEFENSE, ARLINGTON, VA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 170,459 rentable square feet of space for the Department of Defense currently located at Ballston Center Tower One, 800 N. Quincy St, Arlington, Virginia at a proposed total annual cost of \$5,454,688 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF LABOR, ARLINGTON, VA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 81,313 rentable square feet of space and 3 parking spaces for the Department of Labor, currently located at Ballston Center Tower Three, 4015 Wilson Blvd, Arlington, Virginia at a proposed total annual cost of \$2,602,016 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—GENERAL SERVICES ADMINISTRATION, PHILADELPHIA, PA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the

Public Buildings Act of 1959, (40 U.S.C. 606), appropriations are authorized to lease up to approximately 160,200 rentable square feet of space and 38 parking spaces for the General Services Administration currently located at the Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania at a proposed total annual cost of \$4,806,000 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL BUREAU OF INVESTIGATION, LAS VEGAS, NV

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 106,955 rentable square feet of space and 160 parking spaces for the Federal Bureau of Investigation currently located at 700 East Charleston Boulevard, 333 North Rancho Drive, 5145 Cheyenne Avenue, 21 North Pecos and 1202 Sharp Circle in Las Vegas, Nevada, at a proposed total annual cost of \$2,620,398 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—GENERAL SERVICES ADMINISTRATION, STOCKTON, CA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 1,439,694 rentable square feet of space for the General Services Administration—Federal Supply Service currently located at Rough and Ready Island, Stockton, California at a proposed total annual cost of \$2,764,212 for a lease term of five years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF JUSTICE—EXECUTIVE OFFICE OF IMMIGRATION REVIEW, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 152,650 rentable square feet of space and 100 indoor parking spaces for the Department of Justice—Executive Office of Immigration Review, currently located at multiple locations throughout Northern Virginia at a proposed annual cost of \$4,884,000 for office space, and a proposed annual cost of \$114,000 for parking, for a proposed total annual cost of \$4,998,000 for a lease term of

ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—UNITED STATES SECRET SERVICE, CHICAGO, IL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 76,200 rentable square feet of space and 140 parking spaces for the United States Secret Service, currently located at 300 S. Riverside, Chicago, Illinois at a proposed total annual cost of \$4,267,200 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—CORPS OF ENGINEERS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, DEPARTMENT OF TRANSPORTATION, SMALL BUSINESS ADMINISTRATION, BALTIMORE, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 311,713 rentable square feet of space and 89 structured parking spaces for the Department of Transportation, Small Business Administration, Equal Employment Opportunity Commission, Department of Housing and Urban Development, and Corps of Engineers, currently located at the City Crescent Building, 10 N. Howard St., Baltimore, Maryland at a proposed annual cost of \$8,416,251 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL BUREAU OF INVESTIGATION, WOODLAWN, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 131,169 rentable square feet of space and 164 structured and 11 surface parking spaces for the Federal Bureau of Investigation, currently located at 7142 and 7127 Ambassador Road and 3100 Timanus Lane, Woodlawn, Maryland and 1520 Caton Center Road, Catonsville, Maryland at a proposed total annual cost of \$5,094,604 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—U.S. CUSTOMS SERVICE, FOOD AND DRUG ADMINISTRATION, U.S. MARSHALS SERVICE, SEATTLE, WA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 56,210 rentable square feet of space and 93 indoor parking spaces for the United States Marshals Service, the U.S. Customs Service, and the Food and Drug Administration, currently located at 1000 Second Avenue, Seattle, Washington at a proposed total annual cost of \$2,529,450 for a lease term of ten years, five years firm, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—NATIONAL INSTITUTES OF HEALTH, BALTIMORE, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 392,482 rentable square feet of space for the National Institutes of Health Bayview Research Center, currently located at the Bayview Campus of Johns Hopkins University, Baltimore, Maryland at a proposed total annual cost of \$20,016,582 for a lease term of 20 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL TRADE COMMISSION, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 220,000 rentable square feet of space for the Federal Trade Commission, currently located at 601 Pennsylvania Avenue, NW, Washington, D.C. at a proposed total annual cost of \$9,240,000 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FARR of California (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. HILL of Montana (at the request of Mr. ARMEY) for today until 12:00 p.m. on account of medical reasons.

extend their remarks and include extraneous material:)

Mr. MCCOLLUM, for 5 minutes, today.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

(The following Members (at the request of Mr. MCCOLLUM) to revise and

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$845.00.

ADJOURNMENT

Mr. SHERMAN. Mr. Speaker, pursuant to House Concurrent Resolution 442, 106th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. VITTER). Pursuant to the provisions of House Concurrent Resolution 442, 106th Congress, the House stands adjourned until 2 p.m. on Monday, December 4, 2000.

Thereupon (at 6 o'clock and 47 minutes p.m.), pursuant to House Concurrent Resolution 442, the House adjourned until Monday, December 4, 2000, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and dollars utilized for official foreign travel during the third quarter of 2000, by Committees of the House of Representatives, pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2000

Name of member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrive	Depart		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
David Abramowitz	3/28	4/1	Switzerland .....	.....	402.00	.....	.....	.....	.....	.....	402.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	4,131.00	.....	.....	.....	4,131.00
David Adams	3/30	4/3	Colombia .....	.....	772.00	.....	.....	.....	.....	.....	772.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	1,827.80	.....	.....	.....	1,827.80
.....	4/16	4/18	Bangladesh .....	.....	419.00	.....	.....	.....	.....	.....	419.00
.....	4/18	4/22	India .....	.....	1,275.00	.....	.....	.....	.....	.....	1,275.00
.....	4/23	4/25	Pakistan .....	.....	449.00	.....	.....	.....	.....	.....	449.00
.....	.....	.....	.....	.....	.....	.....	7,406.84	.....	.....	.....	7,406.84
Hon. Cass Ballenger	4/1	4/2	Costa Rica .....	.....	110.00	.....	.....	.....	.....	.....	110.00
Bob Becker	4/26	4/28	Nicaragua .....	.....	497.50	.....	.....	.....	.....	.....	497.50
Commercial airfare .....	.....	.....	.....	.....	.....	.....	469.80	.....	.....	.....	469.80
Paul Berkowitz	3/29	3/30	Belgium .....	.....	246.00	.....	.....	.....	.....	.....	246.00
.....	3/30	3/31	Switzerland .....	.....	270.00	.....	.....	.....	.....	.....	270.00
.....	3/31	4/1	Italy .....	.....	289.00	.....	.....	.....	.....	.....	289.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	5,444.50	.....	.....	.....	5,444.50
Commercial airfare	4/15	4/22	China .....	.....	1,756.00	.....	555.92	.....	.....	.....	2,311.92
.....	.....	.....	.....	.....	.....	.....	4,170.80	.....	.....	.....	4,170.80
Commercial airfare	4/22	4/25	Taiwan .....	.....	678.00	.....	.....	.....	.....	.....	678.00
.....	.....	.....	.....	.....	.....	.....	735.66	.....	.....	.....	735.66
Hon. Kevin Brady	4/21	4/22	Croatia .....	.....	64.50	.....	.....	.....	.....	.....	64.50
.....	4/22	4/23	Bosnia .....	.....	141.50	.....	.....	.....	.....	.....	141.50
Peter Brookes	4/15	4/22	China .....	.....	1,756.00	.....	555.92	.....	.....	.....	2,311.92
Commercial airfare .....	.....	.....	.....	.....	.....	.....	5,107.80	.....	.....	.....	5,107.80
Sean Carroll	5/19	5/22	Haiti .....	.....	292.00	.....	.....	.....	.....	.....	292.00
Hon. William D. Delahunt	4/1	4/2	Costa Rica .....	.....	173.00	.....	.....	.....	.....	.....	173.00
Michael Ennis	4/16	4/18	Bangladesh .....	.....	444.00	.....	.....	.....	.....	.....	444.00
.....	4/18	4/22	India .....	.....	1,217.00	.....	.....	.....	3 95.17	.....	1,312.17
.....	4/23	4/25	Pakistan .....	.....	474.00	.....	.....	.....	3 293.77	.....	767.77
Commercial airfare .....	.....	.....	.....	.....	.....	.....	7,406.84	.....	.....	.....	7,406.84
David Fite	4/18	4/22	India .....	.....	1,214.00	.....	.....	.....	.....	.....	1,214.00
.....	4/23	4/25	Pakistan .....	.....	474.00	.....	.....	.....	.....	.....	474.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	7,319.00	.....	.....	.....	7,319.00
.....	5/27	5/31	Russia .....	.....	898.00	.....	.....	.....	.....	.....	898.00
.....	5/31	6/2	United Kingdom .....	.....	642.00	.....	.....	.....	.....	.....	642.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	6,419.07	.....	.....	.....	6,419.07
Richard Garon	4/7	4/8	Dominican Republic .....	.....	114.00	.....	.....	.....	.....	.....	114.00
.....	4/8	4/9	Haiti .....	.....	187.85	.....	.....	.....	3 145.57	.....	333.42
Commercial airfare .....	.....	.....	.....	.....	.....	.....	640.02	.....	.....	.....	640.02
Kristen Gilley	4/25	4/27	Greece .....	.....	288.00	.....	.....	.....	.....	.....	288.00
.....	4/27	4/30	France .....	.....	786.00	.....	.....	.....	.....	.....	786.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	4,613.19	.....	.....	.....	4,613.19
Charisse Glassman	5/13	5/15	Haiti .....	.....	235.77	.....	.....	.....	.....	.....	235.77
Commercial airfare .....	.....	.....	.....	.....	.....	.....	873.80	.....	.....	.....	873.80
.....	5/19	5/22	Haiti .....	.....	292.00	.....	.....	.....	.....	.....	292.00
Amos Hochstein	5/28	5/31	Russia .....	.....	728.00	.....	.....	.....	.....	.....	728.00
.....	5/31	6/2	United Kingdom .....	.....	622.00	.....	.....	.....	.....	.....	622.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	6,419.00	.....	.....	.....	6,419.00
John Mackey	3/30	4/3	Colombia .....	.....	772.00	.....	.....	.....	.....	.....	772.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	1,827.80	.....	.....	.....	1,827.80
.....	4/24	4/27	Greece .....	.....	288.00	.....	.....	.....	.....	.....	288.00
.....	4/27	4/30	France .....	.....	786.00	.....	.....	.....	.....	.....	786.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	4,613.19	.....	.....	.....	4,613.19
Commercial airfare	5/17	5/20	Colombia .....	.....	579.00	.....	.....	.....	.....	.....	579.00
.....	.....	.....	.....	.....	.....	.....	667.80	.....	.....	.....	667.80
Caleb McCarry	4/7	4/8	Dominican Republic .....	.....	174.00	.....	.....	.....	.....	.....	174.00
.....	4/8	4/9	Haiti .....	.....	189.89	.....	.....	.....	.....	.....	189.89
Commercial airfare .....	.....	.....	.....	.....	.....	.....	640.02	.....	.....	.....	640.02
.....	4/26	4/28	Nicaragua .....	.....	497.50	.....	.....	.....	.....	.....	497.50
.....	4/28	4/29	Panama .....	.....	110.00	.....	.....	.....	.....	.....	110.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	586.80	.....	.....	.....	586.80
Kathleen Moazed	4/15	4/22	China .....	.....	1,756.00	.....	555.92	.....	.....	.....	2,311.92
Commercial airfare .....	.....	.....	.....	.....	.....	.....	5,131.30	.....	.....	.....	5,131.30
Hon. Donald M. Payne	5/14	5/15	Haiti .....	.....	235.78	.....	.....	.....	3 96.38	.....	332.16
Commercial airfare .....	.....	.....	.....	.....	.....	.....	826.80	.....	.....	.....	826.80
Stephen Rademaker	4/27	4/30	Slovak Republic .....	.....	400.00	.....	.....	.....	.....	.....	400.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	5,443.57	.....	.....	.....	5,443.57
.....	5/28	6/1	Russia .....	.....	1,200.00	.....	5,812.01	.....	3 954.52	.....	2,154.52
Grover Joseph Rees	3/29	4/1	Switzerland .....	.....	577.00	.....	.....	.....	.....	.....	577.00
Commercial airfare .....	.....	.....	.....	.....	.....	.....	4,771.45	.....	.....	.....	4,771.45

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2000—Continued

Name of member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrive	Depart		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
John Walker Roberts	5/28	5/31	Russia		918.00						918.00
	5/31	6/2	United Kingdom		622.00						622.00
Commercial airfare							6,419.07				6,419.07
Hon. Dana Rohrabacher	4/25	4/26	Macedonia		172.00						172.00
	4/26	4/27	Kosovo		0.00						0.00
	4/27	4/28	Austria		217.69						217.69
Commercial airfare							1,784.34				1,784.34
Tanya Shamson	5/20	5/23	Latvia		650.00						650.00
Commercial airfare							4,905.96				4,905.96
Peter Yeo	4/15	4/21	China		1,510.00		555.92				2,065.92
Commercial airfare							5,235.80				5,235.80
Grover Joseph Rees	5/30	6/6	Thailand		1,285.00		197.53				1,482.53
Commercial airfare							3,313.80				3,313.80
Committee Total					31,146.98		117,386.04		1,585.41		150,118.43

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

³ Indicates delegation costs.

BEN GILMAN, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2000

Name of member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrive	Depart		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

FOR HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☐

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN R. KASICH, Chairman, Oct. 31, 2000.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10934. A letter from the Congressional Review Coordinator, Department of Agriculture, Animal and Plant Health Inspection Service, transmitting the Department's final rule—Brucellosis in Cattle; State and Area Classifications; Louisiana [Docket No. 99-052-2] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10935. A letter from the Congressional Review Coordinator, Department of Agriculture, Animal and Plant Health Inspection Service, transmitting the Department's final rule—Importation of Horses, Ruminants, Swine, and Dogs; Inspection and Treatment for Screwworm [Docket No. 00-028-1] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10936. A letter from the Congressional Review Coordinator, Department of Agriculture, Animal and Plant Health Inspection Service, transmitting the Department's final rule—Spanish Pure Breed Horses from Spain [Docket No. 00-109-1] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10937. A letter from the Executive Vice President, Commodity Credit Corporation, Department of Agriculture, Warehouse and Inventory Division, transmitting the Department's final rule—Bioenergy Program (RIN: 0560-AG16) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10938. A letter from the Associate Administrator, Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting the Department's final rule—Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, Except

Malheur County; Suspension of Handling, Reporting, and Assessment Collection Regulations [Docket No. FV00-947-1 FIR] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10939. A communication from the President of the United States, transmitting his requests for emergency FY 2001 supplemental appropriations totaling \$750 million in total grant assistance to the Governments in Israel, Egypt, and Jordan pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; (H. Doc. No. 106—313); to the Committee on Appropriations and ordered to be printed.

10940. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors, Fiscal Year 2001 [Docket No. FR-4626-N-01] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10941. A letter from the Secretary, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Federal Pell Grant Program (RIN: 1845-AA17) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10942. A letter from the Assistant Secretary, Occupational Safety and Health Administration, transmitting the Administration's final rule—Ergonomics Program [Docket No. S-777] (RIN: 1218-AB36) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10943. A letter from the Regulations Officer, NIH, Department of Health and Human Services, transmitting the Department's

final rule—Traineeships (RIN: 0925-AA11) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10944. A letter from the Administrator, NHTSA, Department of Transportation, transmitting the Department's final rule—Civil Penalties, Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards [Docket No. NHTSA 2000-8253] (RIN: 2127-AI18) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10945. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans [MA-25-7197a; A-1-FRL-6882-7] received November 8, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10946. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-6899-7] received November 7, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10947. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Michigan [MI74-02-7282a; FRL-6896-3] received November 7, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10948. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Florida [FL-86-200028(a); FRL-6902-4] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10949. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Wisconsin Designation of Areas for Air Quality Planning Purposes; Wisconsin [W196-01-7327a; FRL-6901-3] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10950. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Enhanced Motor Vehicle Inspection and Maintenance Program [MA-081-7211a; A-1-FRL-6897-4] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10951. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Asbestos Worker Protection [OPPTS-62125B; FRL-6751-3] (RIN: 2070-AC66) received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10952. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Revision of Annual Charges Assessed to Public Utilities [Docket No. RM00-7-000; Order No. 641] received November 8, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10953. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, transmitting the Commission's final rule—Guidance on Managing Quality Assurance Records in Electronic Media—received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10954. A communication from the President of the United States, transmitting notification that the Iran emergency is to continue in effect beyond November 14, 2000, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 106-310); to the Committee on International Relations and ordered to be printed.

10955. A communication from the President of the United States, transmitting notification that the national emergency with respect to the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and the means of delivering such weapons is to continue in effect beyond November 14, 2000, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 106-311); to the Committee on International Relations and ordered to be printed.

10956. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to Iran that was declared by Executive Order No. 12170 of November 14, 1979, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 106-312); to the Committee on International Relations and ordered to be printed.

10957. A letter from the Ambassador, Republic of Slovenia, transmitting a report from the International Trust Fund for Demining and Mine Victim Assistance, Intermediate Activity Report 2000; to the Committee on International Relations.

10958. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the Inventory of Commercial Activities; to the Committee on Government Reform.

10959. A letter from the Deputy Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Sitka Pinnacles Marine Reserve [Docket No. 000616184-0290-02; I.D. 050500A] (RIN: 0648-

AK74) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10960. A letter from the Attorney-Advisor, Federal Register, Certifying Officer, Department of the Treasury, Financial Management Service, transmitting the Department's final rule—Federal Claims Collection Standards (RIN: 1510-AA57 and 1105-AA31) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10961. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Inmate Discipline: Prohibited Acts [BOP-1083-F] (RIN: 1120-AA78) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10962. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Rules of Practice and Procedure (RIN: 3064-AC45) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10963. A letter from the Under Secretary of Commerce for Intellectual Property and Director, Patent and Trademark Office, transmitting the Office's final rule—Treatment of Unlocatable Patent Application and Patent Files (RIN: 0651-AB19) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10964. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, USCG, transmitting the Department's final rule—Regulated Navigation Area; San Pedro Bay, California [CGD11-00-007] (RIN: 2115-AE84) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10965. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, USCG, transmitting the Department's final rule—Safety Zone: Weekly Fireworks, Dockside Restaurant, Port Jefferson Harbor, NY [CGD01-00-217] (RIN: 2115-AA97) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10966. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, USCG, transmitting the Department's final rule—Noxious Liquid Substances, Obsolete Hazardous Materials in Bulk, and Current Hazardous Materials in Bulk [USCG 2000-7079] (RIN: 2115-AF96) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10967. A letter from the Chief, Regulations Branch, Customs Service, Department of Treasury, transmitting the Department's final rule—Technical Amendments to the Customs Regulations—received November 8, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10968. A letter from the Chairman, Trade Deficit Review Commission, transmitting a report on "The U.S. Trade Deficit: Causes, Consequences and Recommendations for Action"; to the Committee on Ways and Means.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1689. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than December 5, 2000.

H.R. 1882. Referral to the Committee on Ways and Means extended for a period ending not later than December 5, 2000.

H.R. 2580. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than December 5, 2000.

H.R. 4144. Referral to the Committee on the Budget extended for a period ending not later than December 5, 2000.

H.R. 4548. Referral to the Committee on Education and the Workforce extended for a period ending not later than December 5, 2000.

H.R. 4585. Referral to the Committee on Commerce extended for a period ending not later than December 5, 2000.

H.R. 4725. Referral to the Committee on Education and the Workforce extended for a period ending not later than December 5, 2000.

H.R. 4857. Referral to the Committees on the Judiciary, Commerce, and Banking and Financial Services for a period ending not later than December 5, 2000.

H.R. 5130. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than December 5, 2000.

H.R. 5291. Referral to the Committee on Ways and Means extended for a period ending not later than December 5, 2000.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DEFAZIO (for himself and Mr. LEACH):

H.R. 5631. A bill to establish a commission to study and make recommendations with respect to the Federal electoral process; to the Committee on House Administration.

By Mr. SCOTT:

H.R. 5632. A bill to amend the Higher Education Act of 1965 to permit Pell Grants to incarcerated students under limited conditions; to the Committee on Education and the Workforce.

By Mr. ISTOOK:

H.R. 5633. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2001, and for other purposes; to the Committee on Appropriations, considered and passed.

By Mr. HOUGHTON (for himself and Mr. RANGEL):

H.R. 5634. A bill to amend the Internal Revenue Code of 1986 to provide a rehabilitation credit for certain expenditures to rehabilitate historic performing arts facilities; to the Committee on Ways and Means.

By Mr. HUTCHINSON:

H.R. 5635. A bill to amend the National Labor Relations Act; to the Committee on Education and the Workforce.

By Mr. ROHRBACHER:

H.R. 5636. A bill to provide compensation for injury and property damages suffered by persons as a result of the bombing attack by the United States on August 28, 1988 in Khartoum, Sudan, and for other purposes; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 442. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. PRICE of North Carolina:

H. Res. 667. A resolution requesting the President to furnish to the House of Representatives certain information held by the

Archivist of the United States concerning the transmission of electoral information under section 6 of title 3, United States Code, by the States and the District of Columbia; to the Committee on House Administration.

By Mr. ROHRABACHER:

H. Res. 668. A resolution to provide for the consideration by the United States Court of Claims of a bill for compensation, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. PASCRELL.

H.R. 2635: Mr. COX.

H.R. 3249: Mr. PAYNE.

H.R. 3433: Mr. GONZALEZ.

H.R. 3698: Mr. GIBBONS.

H.R. 3710: Mr. GOODLATTE and Mr. SERRANO.

H.R. 3872: Mr. McNULTY.

H.R. 4434: Mr. SCOTT.

H.R. 4481: Mr. GUTIERREZ.

H.R. 4506: Mr. MASCARA.

H.R. 4971: Mrs. CLAYTON.

H.R. 5065: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5208: Mr. GONZALEZ.

H.R. 5250: Mr. CLEMENT.

H.R. 5499: Mrs. MEEK of Florida.

H.R. 5585: Ms. DELAURO, Mr. FILNER, Ms. PELOSI, and Mr. PHELPS.

H.R. 5612: Mr. ABERCROMBIE, Mr. BRADY of Pennsylvania, and Mr. LAFALCE.

H.R. 5613: Mr. STEARNS.

H. Con. Res. 341: Mr. SHAW and Ms. ROSELEHTINEN.

H. Con. Res. 412: Mr. GONZALEZ.

H. Con. Res. 430: Mr. DIAZ-BALART.

H. Con. Res. 431: Mr. PORTER and Mr. FILLNER.

H. Res. 622: Mr. FARR of California.

H. Res. 635: Mr. HANSEN.